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# ILLINOIS

## REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 24, Issue 53  
December 29, 2000

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EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000  
Issue 29 - July 14, 2000: Data Through June 30, 2000  
Issue 42 - October 13, 2000: Data Through September 30, 2000  
Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

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## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

1) Heading of the Part: High Risk Home Loans

2) Code Citation: 38 Ill. Adm. Code 345

3) Section Numbers: Proposed Action:

345.10	New
345.20	New
345.30	New
345.40	New
345.45	New
345.50	New
345.60	New
345.65	New
345.70	New
345.80	New
345.90	New
345.100	New
345.110	New
345.120	New
345.130	New
345.140	New
345.150	New
345.160	New

4) Statutory Authority: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48(6)(a)].

5) A complete description of the subjects and issues involved: The proposed rulemaking adds new language that will clarify the terms and conditions for a defined "high risk home loan". Lenders will be required to base the loan on the borrowers ability to repay and the lender must verify that ability. Fraudulent and deceptive practices are banned. Pre-paid insurance products are banned. A refinancing within a 12 month period that results in additional points and fees is limited to when there is a financial benefit to the borrower. Balloon payments are limited. Points and fees can be financed only if they are less than 6% of the loan amount. Payments made by lenders solely to contractors will no longer be allowed. Negative amortization and negative equity loans are limited to reverse mortgages. Notice of counseling is required on certain loans prior to moving the loan into a foreclosure proceeding. A Mortgage Awareness Program to counsel borrowers is established. A new report detailing default and foreclosure rates on conventional loans is required to be filed by the entity chartered or licensed. Such report may be used to initiate regulatory corrective action. A program to have the State perform third party reviews of certain loans is established subject to funding by the General Assembly.

All of these features are designed to provide a comprehensive response to

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

the high foreclosure rates that have occurred in the last two years.

6) Will these proposed amendments replace emergency amendments currently in effect? Sections 345.130, 345.140, and 345.150 will replace emergency amendments.

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed rules pending to this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701-1532  
217/782-3000

OBRE will consider all written comments it receives in writing within 45 days after the date of publication in this *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Entities regulated by this Part will need to provide a semiannual report to the Commissioner on the entity's default and foreclosure rates.

C) Types of professional skills necessary for compliance: None beyond the skills already present within the regulated entity.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The complexity of the issue together with the need to coordinate rule language with numerous entities made it difficult to predict when the rule would be perfected and moved to the rulemaking process.

The full text of the Proposed Amendments begins on the next page.



OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 345  
HIGH RISK HOME LOANS

Section	
345.10	Definitions
345.20	Ability to Repay
345.30	Verification of Ability to Pay Loan *
345.40	Fraudulent or Deceptive Practices
345.45	Prepayment Penalty
345.50	Pre-paid Insurance Products and Warranties
345.60	Refinancing Prohibited in Certain Cases
345.65	Balloon Payments
345.70	Financing of Certain Points and Fees
345.80	Payments to Contractors
345.90	Negative Amortization
345.100	Negative Equity
345.110	Counseling Prior to Perfecting Foreclosure Proceedings
345.120	Mortgage Awareness Program
345.130	Report of Default and Foreclosure Rates on Conventional Loans
345.140	Commissioner's Authority - Unusually High Rate on Conventional Loans
345.150	Commissioner's Action - Unusually High Rate on Conventional Loans
345.160	Third Party Review of High Risk Home Loans

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS/48(6)(a)].

SOURCE: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 345.10 Definitions

"Act" means the Illinois Banking Act [205 ILCS 5].

"High risk home loan" means a home equity loan in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5 percent of the total loan

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amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan and to an open-end credit plan subject to subchapter B (12 CFR 226.5 through 226.16) or Section 226.32 of 12 CFR 226 (2000), no subsequent dates or editions are included.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Points and fees" means:

all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.5.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

Section 345.20 Ability to Repay

A lender shall not make a high risk home loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate,



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the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

**Section 345.30 Verification of Ability to Pay Loan**

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- a) The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Commissioner.
- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

**Section 345.40 Fraudulent or Deceptive Practices**

No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan, including deceptive marketing and sales efforts.

**Section 345.45 Prepayment Penalty**

No lender shall make a subject loan that calls for a prepayment penalty made:

- a) after the expiration of the 36 month period following the date the loan was made; or
- b) that is more than:
  - 1) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
  - 2) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or
  - 3) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

**Section 345.50 Pre-paid Insurance Products and Warranties**

No lender shall make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

**Section 345.60 Refinancing Prohibited in Certain Cases**

No lender shall refinance any high risk home loan, where such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

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**Section 345.65 Balloon Payments**

No lender shall make a high risk home loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

**Section 345.70 Financing of Certain Points and Fees**

No lender shall make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.

**Section 345.80 Payments to Contractors**

No lender shall make a payment to a contractor under a home improvement contract other than:

- a) by instrument payable to the borrower or jointly to the borrower and the contractor; or
- b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

**Section 345.90 Negative Amortization**

No lender shall make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

**Section 345.100 Negative Equity**

No lender shall make a high risk home loan where the loan amount exceeds the equity of the property securing the loan.

**Section 345.110 Counseling Prior to Perfecting Foreclosure Proceedings**

- a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- b) The notice required in subsection (a) shall, at a minimum, include the following language:



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

- c) If a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.
- d) If, within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

- 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.
- 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.
- f) This Section applies only to high risk home loans as defined by Section 345.10.

## Section 345.120 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial Institutions.

- b) The core curriculum of the Mortgage Awareness Program shall include:

- 1) Explanation of the amount financed;
- 2) Explanation of the finance charge;
- 3) Explanation of the annual percentage rate;
- 4) Explanation of the total payments;
- 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;
- 6) Explanation of the right of rescission;

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

- 7) Explanation of foreclosure procedures;
- 8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;
- 9) Explanation of adjustable rate mortgage;
- 10) Explanation of balloon payments;
- 11) Explanation of credit options;
- 12) Explanation of each item that appears on a good faith estimate;
- 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Commissioner.
- d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a Third Party Review to establish the affordability of the loan.
- e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.
- f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
- g) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.
- h) Except as prohibited elsewhere in this Part, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that such waiver is in writing in a form approved by the Commissioner.

## Section 345.130 Report of Default and Foreclosure Rates on Conventional Loans

- a) On or before August 1 and February 1 of each year, each bank who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.

- b) Each bank shall report for each loan in default or foreclosure:

- 1) name of borrowers;
- 2) address of the property mortgaged;
- 3) census tract of the property mortgaged;
- 4) status of the loan (default or foreclosure);
- 5) date the loan was consummated;
- 6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;
- 7) name and address of any non-licensed or exempt entity that originated the loan.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

**Section 345.140 Commissioner's Authority - Unusually High Rate on Conventional Loans**

The Commissioner may take any action permitted under Section 345.150 or any other Section of this Part whenever the Commissioner determines that a bank's report under Section 345.130 on the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A bank's rate that exceeds such average shall be considered unusually high.

**Section 345.150 Commissioner's Action - Unusually High Rate on Conventional Loans**

a) Whenever a bank's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 345.140, the Commissioner shall:

- 1) conduct an examination of the bank;
- 2) enter into a supervisory agreement with the bank to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;
- 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:
  - A) requiring use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;
  - B) providing of a counseling video to borrowers of future loans;
  - C) mandating that all prospective borrowers bring their loan applications to the Commissioner for a Third Party Review as described in Section 345.160 of this Part;
  - D) levying fines;
  - E) using other regulatory means up to and including issuance of a cease and desist order.
- b) When the loan analysis described in Sections 345.130(a) and 345.140 shows that a licensee under the Residential Mortgage Licensing Act acting as broker or originator is contributing to the high default and foreclosure rate of the reporting bank, that broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

**Section 345.160 Third Party Review of High Risk Home Loans**

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review of the loan terms in order to determine affordability of the loan when and if the General Assembly appropriates adequate funding to the Office of Banks and Real Estate specifically for this program.

- a) The Commissioner shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Office of Banks and Real Estate.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, with a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the high risk home loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Savings and Loan Act of 19852) Code Citation: 38 Ill. Adm. Code 10003) Section Number: Proposed Action

1000.3000	New
1000.3100	New
1000.3150	New
1000.3200	New
1000.3225	New
1000.3250	New
1000.3300	New
1000.3325	New
1000.3350	New
1000.3400	New
1000.3450	New
1000.3500	New
1000.3550	New
1000.3600	New
1000.3650	New
1000.3700	New
1000.3750	New
1000.3800	New

4) Statutory Authority: Implementing and authorized by the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)].

5) A complete description of the subjects and issues involved: The proposed rulemaking adds new language that will clarify the terms and conditions for a defined "high risk home loan". Lenders will be required to base the loan on the borrowers ability to repay and the lender must verify that ability. Fraudulent and deceptive practices are banned. Pre-paid insurance products are banned. A refinancing within a 12 month period that results in additional points and fees is limited to when there is a financial benefit to the borrower. Balloon payments are limited. Points and fees can be financed only if they are less than 6% of the loan amount. Payments made by lenders solely to contractors will no longer be allowed. Negative amortization and negative equity loans are limited to reverse mortgages. Notice of counseling is required on certain loans prior to moving the loan into a foreclosure proceeding. A Mortgage Awareness Program to counsel borrowers is established. A new report detailing default and foreclosure rates on conventional loans is required to be filed by the entity chartered or licensed. Such report may be used to initiate regulatory corrective action. A program to have the State perform third party reviews of certain loans is established subject to funding by the General Assembly.

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All of these features are designed to provide a comprehensive response to the high foreclosure rates that have occurred in the last two years.

6) Will these proposed amendments replace emergency amendments currently in effect? Sections 1000.3650, 1000.3700, and 1000.3750 will replace emergency amendments.

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This amendment will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701-1532  
217/782-3000

OBRE will consider all written comments it receives in writing within 45 days after the date of publication in this *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Entities regulated by this Part will need to provide a semiannual report to the Commissioner on the entity's default and foreclosure rates.

C) Types of professional skills necessary for compliance: None, beyond the skills already present within the regulated entity.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The complexity of the issue together with the need to coordinate rule language with numerous entities made it difficult to predict when the rule would be perfected and moved to the rulemaking process.



OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page.

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF PROPOSED AMENDMENTS  
TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE  
PART 1000  
ILLINOIS SAVINGS AND LOAN ACT OF 1985

SUBPART A: FEES

Section	
1000.110	Filings
1000.120	Conditions
1000.130	Examination Fees
1000.140	Annual Supervisory Fees (Repealed)
1000.141	Supervisory Fees
1000.142	Adjusted Supervisory Fees
1000.143	Special Assessment (Emergency Expired)
1000.150	Manner of Payment
1000.151	Special Credit (Repealed)

SUBPART B: DEFINITIONS

Section	
1000.205	Introduction
1000.210	Association
1000.220	Commissioner
1000.230	Single Family Dwelling
1000.240	Unsafe
1000.250	Mobile Home
1000.260	Mobile Home Chattel Paper
1000.270	Person
1000.280	Proposed Borrower
1000.290	Redlining

SUBPART C: REPORTS

Section	
1000.310	Contracts (Repealed)

SUBPART D: OPERATIONS

Section	
1000.410	Permanent Reserve Shares
1000.420	Dividend Advertising
1000.430	Maintenance of Records
1000.440	Business Plan

SUBPART E: APPRAISALS



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1000.510		
Section		SUBPART F: INVESTMENTS
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1000.620	Discrimination and Redlining Prohibited	
1000.630	Loans Secured by Real Estate	
1000.640	Construction Loans	
1000.650	College Loans (Repealed)	
1000.660	Mobile Home Financing	
1000.665	Other Loans	
1000.670	Collateral Loans (Repealed)	
1000.675	Investment Parity (Repealed)	
1000.680	Unsecured Loans (Repealed)	
1000.690	Sale of Loans and Participations (Repealed)	
1000.700	Insider Loan Rates (Repealed)	
1000.710	Reverse Mortgage Loans	
1000.720	Repurchase Agreements	
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Section	Corrective Action	
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Section		SUBPART I: SERVICE CORPORATIONS
1000.1010	Requirements	
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1000.1040	Investments by Service Corporations	
1000.1050	Ownership of Capital Stock of Service Corporation	
1000.1060	Prohibited Transactions	
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1000.1080	Reporting Requirements	
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Section		SUBPART J: RELOCATIONS AND BRANCHING

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1000.1945	Employee
1000.1950	Equity Security
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1000.1972	Net Worth
1000.1975	Officer
1000.1980	Person
1000.1982	Qualifying Deposit
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1000.1993	Source Documents
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1000.3250	Refinancing Prohibited in Certain Cases
1000.3300	Balloon Payments
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1000.3650 Report of Default and Foreclosure Rates on Conventional Loans  
 1000.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans  
 1000.3750 Commissioner's Action - Unusually High Rate on Conventional Loans  
 1000.3800 Third Party Review of High Cost Loans

**AUTHORITY:** Implementing and authorized by Section 7-3(b)(2) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)] and Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35].

**SOURCE:** Filed and effective January 18, 1974; amended at 2 Ill. Reg. 44, p. 179, effective October 30, 1978; emergency amendment at 2 Ill. Reg. 45, p. 169, effective November 1, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 883, effective January 29, 1979; amended at 3 Ill. Reg. 11, p. 163, effective March 12, 1979; amended at 3 Ill. Reg. 19, p. 22, effective May 12, 1979; emergency amendment at 3 Ill. Reg. 39, p. 230, effective September 17, 1979, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 8, p. 207, effective February 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1241, effective July 14, 1980; emergency amendment at 5 Ill. Reg. 2524, effective February 19, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 7124, effective June 24, 1981; amended at 5 Ill. Reg. 7125, effective June 24, 1981; amended at 5 Ill. Reg. 11377, effective October 14, 1981; amended at 6 Ill. Reg. 3175, effective March 4, 1982; amended at 6 Ill. Reg. 4218, effective April 6, 1982; amended at 6 Ill. Reg. 4219, effective April 6, 1982; amended at 6 Ill. Reg. 4227, effective April 6, 1982; amended at 6 Ill. Reg. 7141, effective June 1, 1982; amended at 7 Ill. Reg. 1993, effective January 28, 1983; codified at 7 Ill. Reg. 13669; amended at 8 Ill. Reg. 8630, effective June 1, 1984; amended at 8 Ill. Reg. 15066, effective August 7, 1984; emergency amendment at 9 Ill. Reg. 17437, effective October 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4946, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14290, effective August 20, 1986; amended at 10 Ill. Reg. 19781, effective November 6, 1986; amended at 11 Ill. Reg. 20648, effective December 2, 1987; emergency amendment at 11 Ill. Reg. 20672, effective December 3, 1987, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 8106, effective April 20, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 15165, effective September 13, 1988; amended at 13 Ill. Reg. 8927, effective May 26, 1989; amended at 16 Ill. Reg. 4881, effective March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1000 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 1003] at 17 Ill. Reg. 4464; recodified from Chapter III, Commissioner of Savings and Residential Finance, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6707, effective March 30, 1998; amended at 24 Ill. Reg. 53, effective January 1, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART P: HIGH RISK HOME LOANS

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## Section 1000.3000 Definitions

"High risk home loan" means a home equity loan in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5 percent of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan and to an open-end credit plan subject to subchapter B or Section 226.32 of 12 CFR 226.32 (2000), no subsequent dates or editions are included.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Points and fees" means:

all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.5.



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"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3100 Ability to Repay**

A lender shall not make a high risk home loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3150 Verification of Ability to Pay Loan**

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Commissioner.
- Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- A credit report is obtained regarding the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3200 Fraudulent or Deceptive Practices**

No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan, including deceptive marketing and sales efforts.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1000.3225 Prepayment Penalty**

No lender shall make a subject loan that calls for a prepayment penalty:

- made after the expiration of the 36 month period following the date the loan was made; or
- that is more than:
  - 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
  - 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or
  - 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3250 Pre-Paid Insurance Products and Warranties**

No lender shall make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3300 Refinancing Prohibited in Certain Cases**

No lender shall refinance any high risk home loan, where such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1000.3325 Balloon Payments**

No lender shall make a high risk home loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 1000.3350 Financing of Certain Points and Fees  
No lender shall make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.  
(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3400 Payments to Contractors  
No lender shall make a payment to a contractor under a home improvement contract other than:  
a) by instrument payable to the borrower or jointly to the borrower and the contractor; or  
b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.  
(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3450 Negative Amortization  
No lender shall make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.  
(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3500 Negative Equity  
No lender shall make a high risk home loan where the loan amount exceeds the equity of the property securing the loan.  
(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3550 Counseling Prior to Perfecting Foreclosure Proceedings  
a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower

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b) that he or she may wish to seek consumer credit counseling.  
The notice required in subsection (a) shall, at a minimum, include the following language:  
"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

c) If a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.  
d) If, within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.  
2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.  
e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.  
f) This Section applies only to high risk home loans as defined by Section 1000.3000.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3600 Mortgage Awareness Program

a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial Institutions.  
b) The core curriculum of the Mortgage Awareness Program shall include:



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- 1) Explanation of the amount financed;  
2) Explanation of the finance charge;  
3) Explanation of the annual percentage rate;  
4) Explanation of the total payments;  
5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;  
6) Explanation of the right of rescission;  
7) Explanation of foreclosure procedures;  
8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;  
9) Explanation of adjustable rate mortgage;  
10) Explanation of balloon payments;  
11) Explanation of credit options;  
12) Explanation of each item that appears on a good faith estimate;  
13) Explanation of pre-payment penalties.  
c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Commissioner.  
d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a third party review to establish the affordability of the loan.  
e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.  
f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.  
g) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.  
h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that such waiver is in writing in a form approved by the Commissioner.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans

- a) On or before August 1 and February 1 of each year, each charter who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.

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- b) Each charter shall report for each loan in default or foreclosure:  
1) name of borrowers;  
2) address of the property mortgaged;  
3) census tract of the property mortgaged;  
4) status of the loan (default or foreclosure);  
5) date the loan was consummated;  
6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;  
7) name and address of any non-licensed or exempt entity that originated the loan.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans

The Commissioner may take any action permitted under the Act whenever the Commissioner determines, based on a charter's report under Section 1000.3650, that the foreclosure rate on conventional mortgage loans in a particular area is deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A charter's rate that exceeds such average shall be considered unusually high.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3750 Commissioner's Action - Unusually High Rate on Conventional Loans

a) Whenever a charter's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1000.3700, the Commissioner shall:

- 1) conduct an examination of such charter;  
2) enter into a supervisory agreement with the charter to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;

- 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:  
A) required use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;

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- B) providing of a counseling video to borrowers of future loans;
- C) mandating that all prospective borrowers bring their loan applications to the Commissioner for a Third Party Review as described in Section 1000.3800 of this Subpart;
- D) levying fines;
- E) using other regulatory means up to and including issuance of a cease and desist order.
- b) When the loan analysis described in Sections 1000.3650(a) and 1000.3700 shows that a licensee under the Residential Mortgage Licensing Act acting as broker or originator is contributing to the high default and foreclosure rate of the reporting charter, that broker or originator shall also be subject to examination and supervisory agreement as defined in Section 1000.3750(a).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.3800 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review of the loan terms in order to determine affordability of the loan when and if the General Assembly appropriates adequate funding to the Office of Banks and Real Estate specifically for this program.

- a) The Commissioner shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Office of Banks and Real Estate.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, with a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the high risk home loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Residential Mortgage License Act of 19872) Code Citation: 38 Ill. Adm. Code 10503) Section Number: Proposed Action:

1050.155 New

1050.190 New

1050.195 New

1050.197 New

1050.1180 New

1050.1185 New

1050.1186 New

1050.1187 New

1050.1250 Amendment

1050.1260 New

1050.1270 New

1050.1272 New

1050.1275 New

1050.1276 New

1050.1277 New

1050.1278 New

1050.1280 New

1050.1810 New

1050.1820 New

1050.1830 New

1050.1910 New

1050.1920 New

1050.1930 New

1050.2010 New

4) Statutory Authority: Implementing and authorized by the Residential Mortgage Licensing Act of 1987 [205 ILCS 635/4-1(g)].

5) A complete description of the subjects and issues involved: The proposed rulemaking adds new language that will clarify the terms and conditions for a defined "high risk home loan". Lenders will be required to base the loan on the borrowers ability to repay and the lender must verify that ability. Fraudulent and deceptive practices are banned. Pre-paid insurance products are banned. A refinancing within a 12 month period that results in additional points and fees is limited to when there is a financial benefit to the borrower. Balloon payments are limited. Points and fees can be financed only if they are less than 6% of the loan amount. Payments made by lenders solely to contractors will no longer be allowed. Negative amortization and negative equity loans are limited to reverse mortgages. Notice of counseling is required on certain loans prior to moving the loan into a foreclosure proceeding. A Mortgage Awareness Program to counsel borrowers is established. A new report detailing default and foreclosure rates on conventional loans is required to be

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filed by the entity chartered or licensed. Such report may be used to initiate regulatory corrective action. A program to have the State perform third party reviews of certain loans is established subject to funding by the General Assembly. All of these features are designed to provide a comprehensive response to the high foreclosure rates that have occurred in the last two years.

6) Will these proposed amendments replace emergency amendments currently in effect? Sections 1050.1910, 1050.1920, and 1050.1930 replace emergency amendments.

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701-1532  
217/782-6167

The Agency will consider all written comments it receives in writing within 45 days after the date of publication in this *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Some Mortgage Broker and Mortgage Banking licensees under this Act are considered small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: Entities regulated by this Part will need to provide a semiannual report to the Commissioner on the entity's default and foreclosure rates.

C) Types of professional skills necessary for compliance: None, beyond the skills already present within the regulated entity.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking

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was not included on either of the 2 most recent regulatory agendas because: The complexity of the issue together with the need to coordinate rule language with numerous entities made it difficult to predict when the rule would be perfected and moved to the rulemaking process.

The full text of the Proposed Amendment, requiring...

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TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE  
PART 1050  
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

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1050.110	Act
1050.115	Administrative Decision
1050.120	Assisting
1050.125	Commissioner
1050.130	Control
1050.135	Document
1050.140	Employee
1050.145	First Tier Subsidiary
1050.150	Hearing Officer
1050.155	High Risk Home Loan
1050.160	Material
1050.165	Other Regulatory Agencies
1050.170	Party
1050.175	Principal Place of Business
1050.180	Repurchase a Loan
1050.185	State
1050.190	Servicer
1050.195	Points and Fees
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SUBPART B: FEES

Section	
1050.210	License Investigation Fees
1050.220	License Fees
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1050.240	Duplicate Original License Fees
1050.250	Examination Fees
1050.255	Direct Expenses of Out-of-State Examinations
1050.260	Additional Full-Service Office Fees
1050.270	Hearing Fees
1050.280	Late Fees (Repealed)
1050.290	Manner of Payment

SUBPART C: LICENSING

Section	
1050.310	Application for an Illinois Residential Mortgage License



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1050.320 Application for Renewal of an Illinois Residential Mortgage License  
 1050.330 Waiver of License Fee  
 1050.340 Full-Service Office  
 1050.350 Additional Full-Service Office  
 1050.360 Continuing Education Requirements for Certain Employees

## SUBPART D: OPERATIONS AND SUPERVISION

## Section

1050.410 Net Worth  
 1050.420 Line of Credit (Repealed)  
 1050.425 Examination  
 1050.430 Late Audit Reports  
 1050.440 Escrow  
 1050.450 Audit Workpapers  
 1050.460 Selection of Independent Auditor  
 1050.470 Proceedings Affecting a License  
 1050.475 Change in Business Activities  
 1050.480 Change of Ownership, Control or Name or Address of Licensee  
 1050.490 Bonding Requirements

## SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

## Section

1050.610 Filing Requirements  
 1050.620 Reporting Forms  
 1050.630 Annual Report of Mortgage Activity  
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 1050.660 Verification

## SUBPART F: FORECLOSURE RATE

## Section

1050.710 Computation of National Residential Mortgage Foreclosure Rate  
 1050.720 Computation of Illinois Residential Mortgage Foreclosure Rate  
 1050.730 Excess Foreclosure Rate  
 1050.740 Foreclosure Rate Hearing  
 1050.750 Commissioner's Authority - Unusually High Rate

## SUBPART G: SERVICING

## Section

1050.810 New Loans  
 1050.820 Transfer of Servicing  
 1050.830 Real Property Tax and Hazard Insurance Payments  
 1050.840 Payment Processing

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1050.850 Toll-Free Telephone Arrangement  
 1050.860 Payoff of Outstanding Mortgage Loan

## SUBPART H: ADVERTISING

## Section

1050.910 General Prohibition  
 1050.920 Definition of Advertisement  
 1050.930 Compliance with Other Laws  
 1050.940 Requirements  
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## SUBPART I: LOAN BROKERAGE PRACTICES

## Section

1050.1010 Loan Brokerage Agreement  
 1050.1020 Loan Brokerage Disclosure Statement  
 1050.1030 Prohibited Practice

## SUBPART J: LOAN APPLICATION PRACTICES

## Section

1050.1110 Borrower Information Document  
 1050.1120 Description of Required Documentation  
 1050.1130 Maintenance of Records (Repealed)  
 1050.1140 Loan Application Procedures  
 1050.1150 Copies of Signed Documents  
 1050.1160 Confirmation of Statements  
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## SUBPART K: GENERAL LENDING PRACTICES

## Section

1050.1210 Notice to Joint Borrowers  
 1050.1220 Inaccuracy of Disclosed Information  
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 1050.1250 Good Faith Requirements  
 1050.1260 Pre-paid Insurance Products and Warranties  
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1050.1277 Negative Amortization  
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## SUBPART L: COMMITMENT AND CLOSING PRACTICES

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1050.1305 Approval Notice  
 1050.1310 Inconsistent Conditions Prohibited  
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## SUBPART M: EXEMPTION GUIDELINES

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## SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

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 1050.1550 Computation of Time  
 1050.1560 Appearances  
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 1050.1590 Service of the Notice of Hearing  
 1050.1595 Bill of Particulars or Motion for More Definite Statement  
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 1050.1610 Consolidation and Severance of Matters - Additional Parties  
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1050.1680 Subpoenas  
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## SUBPART O: MORTGAGE AWARENESS PROGRAM

## Section

1050.1810 General  
 1050.1820 Guidelines  
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## SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

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1050.1910 Report of Default and Foreclosure Rates on Conventional Loan  
 1050.1920 Commissioner's Authority - Unusually High Rate on Conventional Loans  
 1050.1930 Commissioner's Action - Unusually High Rate on Conventional Loans

## SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

## Section

1050.2010 Third Party Review of High Risk Home Loans

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450



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(Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: DEFINITIONS

**Section 1050.155 High Risk Home Loan**

"High risk home loan" means a home equity loan in which:

- a) at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

- b) the total points and fees payable by the consumer at or before closing will exceed the greater of 5 percent of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan and to an open-end credit plan subject to subchapter B or Section 226.32 of 12 CFR 226 (2000), no subsequent dates or editions are included.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 1050.190 Servicer**

"Servicer" shall mean any entity licensed under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency

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loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing. (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 1050.195 Points and Fees**

"Points and fees" shall mean:

- a) all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);  
 b) the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;  
 c) all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in subsection (a) of this Section.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 1050.197 Total Loan Amount**

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART J: LOAN APPLICATION PRACTICES

**Section 1050.1180 Ability to Repay**

A lender shall not make a high risk home loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

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**Section 1050.1185 Verification of Ability to Pay Loan**

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- a) The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Commissioner.
- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

**Section 1050.1186 Fraudulent or Deceptive Practices**

No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan including deceptive marketing and sales efforts.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1050.1187 Prepayment Penalty**

No lender shall make a subject loan that calls for a prepayment penalty made:

- a) after the expiration of the 36 month period following the date the loan was made; or
- b) that is more than:
  - 1) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
  - 2) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or
  - 3) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART K: GENERAL LENDING PRACTICES

**Section 1050.1250 Good Faith Requirements**

- a) For the purpose of this Part, "good faith" means honesty in fact in the conduct of the transaction.
- b) Any disclosure or action required by the Act or this Part shall be made in good faith.
- c) A licensee shall not accept a fee or charge for a residential mortgage loan application, unless the licensee is able to demonstrate to the Commissioner that if its normal residential mortgage loan requirements are met, there is a reasonable likelihood that a loan commitment will

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be issued for such loan for the amount, term, rate, charges and other conditions set forth in the loan application and the applicable disclosures and document required by this Part and that the loan has a reasonable likelihood of being paid by the applicant based on his her ability to pay.

- d) A licensee who has accepted an application for a loan to purchase residential real estate shall make a good faith effort to process the application within the time specified in the residential mortgage loan application.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1050.1260 Pre-paid Insurance Products and Warranties**

No lender shall make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1050.1270 Refinancing Prohibited in Certain Cases**

No lender shall refinance any high risk home loan, whenever such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1050.1272 Balloon Payments**

No lender shall make a high risk home loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1050.1275 Financing of Certain Points and Fees**



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No lender shall make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

Section 1050.1276 Payments to Contractors

No lender shall make a payment to a contractor under a home improvement contract other than:

- by instrument payable to the borrower or jointly to the borrower and the contractor; or
- at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1277 Negative Amortization

No lender shall make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1278 Negative Equity

No lender shall make a high risk home loan where the loan amount exceeds the equity of the property securing the loan.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1280 Counseling Prior to Perfecting Foreclosure Proceedings

- In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- The notice required in subsection (a) shall, at a minimum, include the following language:

Section 1050.1810 General

The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial Institutions.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART O: MORTGAGE AWARENESS PROGRAM

f) This Section applies only to high risk home loans as defined by Section 1050.155.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

c) If a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.

2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

SUBPART O: MORTGAGE AWARENESS PROGRAM

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Section 1050.1820 Guidelines

- a) The core curriculum of the Mortgage Awareness Program shall include:
- 1) Explanation of the amount financed;
  - 2) Explanation of the finance charge;
  - 3) Explanation of the annual percentage rate;
  - 4) Explanation of the total payments;
  - 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;
  - 6) Explanation of the right of rescission;
  - 7) Explanation of the foreclosure procedures;
  - 8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;
  - 9) Explanation of adjustable rate mortgage;
  - 10) Explanation of balloon payments;
  - 11) Explanation of credit options;
  - 12) Explanation of each item which appears on a good faith estimate;
  - 13) Explanation of pre-payment penalties.
- b) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet on forms provided by the Commissioner.
- c) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a Third Party Review to establish the affordability of the loan.
- d) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1830 Offer of Mortgage Awareness Program

- a) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
- b) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.
- c) Except as prohibited elsewhere in this Part, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (c) and that the waiver is in writing in a form approved by the Commissioner.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANSSection 1050.1910 Report of Default and Foreclosure Rates on Conventional Loans

- a) On or before August 1 and February 1 of each year, each licensee who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.
- b) Each licensee shall report for each loan in default or foreclosure:
- 1) name of borrowers;
  - 2) address of the property mortgaged;
  - 3) census tract of the property mortgaged;
  - 4) status of the loan (default or foreclosure);
  - 5) date the loan was consummated;
  - 6) name and license number of licensee under the Act who originated the loan;
  - 7) name and address of non-licensed or exempt entity who originated the loan.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1920 Commissioner's Authority - Unusually High Rate on Conventional Loans

The Commissioner may take any action permitted to be taken by Section 1050.1930 of this Subpart or at any other Section of this Part whenever the Commissioner determines, based on a licensee's report under Section 1050.1910, that the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A licensee's rate that exceeds the average shall be considered unusually high.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1050.1930 Commissioner's Action - Unusually High Rate on Conventional Loans

- a) Whenever a licensee's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1050.1920, the Commissioner shall:



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- 1) conduct an examination of the licensee;
- 2) enter into a supervisory agreement with the licensee to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;
- 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:
  - A) required use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;
  - B) providing of a counseling video to borrower's of future loans;
  - C) mandating that all prospective borrowers become certified under the Mortgage Awareness Program prior to closing on a loan;
  - D) putting the licensee on a probation status;
  - E) levying fines;
  - F) requiring a licensee to maintain a full service office in Illinois;
  - G) using other regulatory means up to and including suspension and revocation of the license.
- b) When the loan analysis described in Sections 1050.1910(a) and 1050.1920 shows that another licensee acting as broker or originator is contributing to the high default and foreclosure rate of the reporting licensee, that broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section 1050.2010 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review of the loan terms in order to determine affordability of the loan when and if the General Assembly appropriates adequate funding to the Office of Banks and Real Estate specifically for this program.

- a) The Commissioner shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Office of Banks and Real Estate.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, a projection of the amount of each payment for the loan, taking into

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- account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
  - e) If, in the opinion of the reviewer of the high risk home loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Savings Bank Act

2) Code Citation: 38 Ill. Adm. Code 1075

3) Section Number: Proposed Action:

1075.3000 New  
1075.3100 New  
1075.3150 New  
1075.3200 New  
1075.3225 New  
1075.3250 New  
1075.3300 New  
1075.3325 New  
1075.3350 New  
1075.3400 New  
1075.3450 New  
1075.3500 New  
1075.3550 New  
1075.3600 New  
1075.3650 New  
1075.3700 New  
1075.3750 New  
1075.3800 New

4) Statutory Authority: Implemented and authorized by the Illinois Savings Bank Act of 1990 [205 ILCS 205/9002(2)].

5) A complete description of the subjects and issues involved: The proposed rulemaking adds new language that will clarify the terms and conditions for a defined "high risk home loan". Lenders will be required to base the loan on the borrower's ability to repay and the lender must verify that ability. Fraudulent and deceptive practices are banned. Pre-paid insurance products are banned. A refinancing within a 12 month period that results in additional points and fees is limited to when there is a financial benefit to the borrower. Balloon payments are limited. Points and fees can be financed only if they are less than 6% of the loan amount. Payments made by lenders solely to contractors will no longer be allowed. Negative amortization and negative equity loans are limited to reverse mortgages. Notice of counseling is required on certain loans prior to moving the loan into a foreclosure proceeding. A Mortgage Awareness Program to counsel borrowers is established. A new report detailing default and foreclosure rates on conventional loans is required to be filed by the entity chartered or licensed. Such report may be used to initiate regulatory corrective action. A program to have the State perform third party reviews of certain loans is established subject to funding by the General Assembly.

All of these features are designed to provide a comprehensive response to

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the high foreclosure rates that have occurred in the last two years.

6) Will these proposed amendments replace emergency amendments currently in effect? Sections 1075.3650, 1075.3700, and 1075.3750 replace emergency amendments.

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending to this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect local government.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Agency will consider all written comments it receives in writing within 45 days after the date of publication in this *Illinois Register*.

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe, Suite 900  
Springfield, Illinois 62701-1532  
217/782-3000

1.) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Entities regulated by this Part will need to provide a semiannual report to the Commissioner on the entity's default and foreclosure rates.

C) Types of professional skills necessary for compliance: None beyond the skills already present within the regulated entity.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The complexity of the issue together with the need to coordinate rule language with numerous entities made it difficult to predict when the rule would be perfected and moved to the rulemaking process.

The full text of the Proposed Amendments begins on the next page.



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TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

## PART 1075

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1075.140  
1075.141

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Supervisory Fees  
Adjusted Supervisory Fees  
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## SUBPART C: REPORTS

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 Information Prohibited  
 Offering Circular -- Certain Named Persons -- Filing of Written  
 Consent Required  
 Offering Circular -- Information Required  
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 Offering Circular -- Statement Required in Offering Circulars  
 Offering Circular -- Preliminary Offering Circular  
 Offering Circular -- Information with Respect to Exercise of  
 Subscription Rights  
 Offering Circular -- Information with Respect to Public Offering or  
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 SUBPART P: HIGH RISK HOME LOANS  
 Section  
 Definitions  
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 Verification of Ability to Pay Loan



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- 1075.3200 Fraudulent or Deceptive Practices  
1075.3225 Prepayment Penalty  
1075.3250 Pre-paid Insurance Products and Warranties  
1075.3300 Refinancing Prohibited in Certain Cases  
1075.3325 Balloon Payments  
1075.3350 Financing of Certain Points and Fees  
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1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings  
1075.3600 Mortgage Awareness Program  
1075.3650 Report of Default and Foreclosure Rates on Conventional Loans  
1075.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans  
1075.3750 Commissioner's Action - Unusually High Rate on Conventional Loans  
1075.3800 Third Party Review of High Risk Home Loans

AUTHORITY: Implementing and authorized by the Savings Bank Act (205 ILCS 205).

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART P: HIGH RISK HOME LOANS

Section 1075.3000 Definitions

"High risk home loan" means a home equity loan in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application

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for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5 percent of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan and to an open-end credit plan subject to subchapter B or Section 226.32 of 12 CFR 226 (2000), on subsequent dates or editions are included.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Points and fees" means:

all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 265.5.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1075.3100 Ability to Repay

A lender shall not make a high risk home loan if the lender does not believe at

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the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3150 Verification of Ability to Pay Loan**

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

- a) The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Commissioner.
- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3200 Fraudulent or Deceptive Practices**

No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan, including deceptive marketing and sales efforts.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3225 Prepayment Penalty**

No lender shall make a subject loan that calls for a prepayment penalty made:

- a) after the expiration of the 36 month period following the date the loan was made; or
- b) that is more than:
  - 1) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
  - 2) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or

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- 3) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3250 Pre-paid Insurance Products and Warranties**

No lender shall make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3300 Refinancing Prohibited in Certain Cases**

No lender shall refinance any high risk home loan whenever such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3325 Balloon Payments**

No lender shall make a high risk home loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3350 Financing of Certain Points and Fees**

No lender shall make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 1075.3400 Payments to Contractors

No lender shall make a payment to a contractor under a home improvement contract other than:

- a) by instrument payable to the borrower or jointly to the borrower and the contractor; or
- b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1075.3450 Negative Amortization

No lender shall make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_)

## Section 1075.3500 Negative Equity

No lender shall make a high risk home loan where the loan amount exceeds the equity of the property securing the loan.

(Source: Added at 25	Ill. Reg.	effective

## Section 1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings

- a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.
- b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE."

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- c) If a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.
- d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.
- 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.
- 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.
- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.
- f) This Section applies only to high risk home loans as defined by Section 1075.3000.
- (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1075.3600 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial Institutions.
- b) The core curriculum of the Mortgage Awareness Program shall include:
- 1) Explanation of the amount financed;
  - 2) Explanation of the finance charge;
  - 3) Explanation of the annual percentage rate;
  - 4) Explanation of the total payments;
  - 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;
  - 6) Explanation of the right of rescission;
  - 7) Explanation of the foreclosure procedures;
  - 8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of

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- residence;
- 9) Explanation of adjustable rate mortgage;
  - 10) Explanation of balloon payments;
  - 11) Explanation of credit options;
  - 12) Explanation of each item which appears on a good faith estimate;
  - 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement and a balance sheet, on forms provided by the Commissioner.
- d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating, and provide a Third Party Review to establish the affordability of the loan.
- e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.
- f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
- g) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.
- h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that the waiver is in writing in a form approved by the Commissioner.
- (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3650 Report of Default and Foreclosure Rates on Conventional Loans**

- a) On or before August 1 and February 1 of each year, each charter who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.
- b) Each charter shall report for each loan in default or foreclosure:
  - 1) name of borrowers;
  - 2) address of the property mortgaged;
  - 3) census tract of the property mortgaged;
  - 4) status of the loan (default or foreclosure);
  - 5) date the loan was consummated;
  - 6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;
  - 7) name and address of any non-licensed or exempt entity that originated the loan.

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- (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 1075.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans**
- The Commissioner may take any action permitted under the Act whenever the Commissioner determines, based on a charter's report under Section 1075.3650, that the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A charter's rate that exceeds such average shall be considered unusually high.
- (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1075.3750 Commissioner's Action - Unusually High Rate on Conventional Loans**

- a) Whenever a charter's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1075.3700, the Commissioner shall:
  - 1) conduct an examination of the charter;
  - 2) enter into a supervisory agreement with the charter to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;
  - 3) use a variety of remedies in a supervisory agreement based on the case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:
    - A) required use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;
    - B) providing of a counseling video to borrowers of future loans;
    - C) mandating that all prospective borrowers bring their loan applications to the Commissioner for a Third Party Review as described in Section 1075.3800 of this Subpart;
    - D) levying fines;
    - E) using other regulatory means up to and including issuance of a Cease and Desist Order.
- b) When the loan analysis described in Sections 1075.3650(a) and 1075.3700 shows that a licensee under the Residential Mortgage Licensing Act acting as broker or originator is contributing to the



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high default and foreclosure rate of the reporting charter, that broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1075.3800 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review of the loan terms in order to determine affordability of the loan when and if the General Assembly appropriates adequate funding to the Office of Banks and Real Estate specifically for this program.

- a) The Commissioner shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Office of Banks and Real Estate.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the high risk home loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Purchasing Card Program
- 2) Code Citation: 44 Ill. Adm. Code 1130
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1130.10	New Section
1130.20	New Section
1130.30	New Section
1130.40	New Section
1130.50	New Section
1130.60	New Section
1130.70	New Section
- 4) Statutory Authority: Authorized and implementing Section 13.3 of the State Finance Act [30 ILCS 105/13.3].
- 5) Complete Description of the Subjects and Issues Involved: The proposed rules implement Section 13.3 of the State Finance Act [30 ILCS 105/13.3]. Section 13.3 authorizes the Comptroller to provide by rule for the use of purchasing cards by State agencies to pay for purchases that may otherwise be paid out of the agency's petty cash fund. The proposed rules specify the process by which the contract for a purchasing card vendor shall be evaluated and awarded; the duties of State agencies participating in the program; and the compliance audit and certification requirements by which the participating agencies and the Office of the Comptroller shall monitor use of the cards.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a state mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Whitney Wagner Rosen  
Legislative Counsel  
Office of the Comptroller  
201 State Capitol  
Springfield, Illinois 62706

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217/782-0905

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: this is a newly developed rule, the timely completion of which was not anticipated at the time the July 2000 Regulatory Agenda was due.

The full text of the Proposed Rules begins on the next page.

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER XIV: COMPTROLLER

PART 1130  
PURCHASING CARD PROGRAM

Section  
1130.10 Statutory Authority  
1130.20 Definitions  
1130.30 Contract Evaluation and Award  
1130.40 Program Participation  
1130.50 Duties of State Agencies  
1130.60 Compliance Audit  
1130.70 Compliance Certification

AUTHORITY: Section 13.3 of the State Finance Act [30 ILCS 105/13.3].

SOURCE: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1130.10 Statutory Authority

- a) This Part establishes rules necessary to implement Section 13.3 of the State Finance Act [30 ILCS 105/13.3] relating to the use of purchasing cards by State agencies.
- b) This Part applies to all State agencies that seek to use a purchasing card under the authority of Section 13.3 of the Act.

## Section 1130.20 Definitions

The following definitions shall be used in interpreting this Part:

"Act" means the State Finance Act [30 ILCS 105].

"Authorized purchase" means an acquisition where a participating agency authorizes an employee as a purchasing card user within cardholder setup limits and restrictions specified by the participating agency; where the merchant authorizes the transaction in accordance with established payment card association rules and regulations; and the participating agency receives the goods. In no event shall a cardholder's acquisition of services or travel expenses be an authorized purchase.

"Cardholder" means an individual designated by a participating agency in accordance with procedures established by CMS to be a purchasing card recipient and make authorized purchases.



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"CMS" means the Department of Central Management Services.

"Goods" means all tangible personal property.

"Participating agency" means a State agency that is enrolled in the purchasing card program pursuant to procedures established by CMS.

"purchasing card program" means the program for State agencies' use of purchasing cards established under this Part.

"Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

"Single purchasing card transaction" means an individual occurrence of using a purchasing card issued under this Part to purchase any amount of goods.

"State agency" means any department, officer, authority, public corporation, quasi-corporation, commission, board, institution, State college or university, or other public agency created by the State, other than units of local government and school districts.

"Travel expense" means an expense incident to official travel.

**Section 1130.30 Contract Evaluation and Award**

a) CMS shall solicit purchasing card vendors to provide for purchasing cards for use as authorized by this Part.

b) CMS and the Comptroller shall jointly evaluate and make recommendations in regard to proposals submitted by purchasing card vendors in response to CMS' solicitation under this Section. CMS' and the Comptroller's joint considerations shall include but not be limited to:

- 1) the purchasing card vendor's ability to provide both detailed transaction data as may be needed for State accounting purposes and overall purchase card program information as may be required by State agencies;
- 2) the purchasing card vendor's ability to electronically interface detailed transaction data with the participating agencies' accounting and billing systems;
- 3) the availability of discounts and rebates that the purchasing card vendor will provide the State;
- 4) the cost to the State for the products and services provided by the purchasing card vendor;
- 5) the impact of the purchasing card program on existing procurement practices and systems;

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- 6) the payment terms and late payment penalties the purchasing card vendor will require;
  - 7) the purchasing card vendor's ability to provide card limits and restrictions as may be required by participating agencies;
  - 8) the purchasing card vendor's proposed program for liability of unauthorized card use;
  - 9) the purchasing card vendor's proposed agency enrollment, implementation and account maintenance processes; and
  - 10) the location and number of suppliers that accept the purchasing card.
- c) As recommended by CMS and the Comptroller as a result of their joint evaluation process, CMS shall award contracts to purchasing card vendors to provide for purchasing cards for use as authorized by this Part.

**Section 1130.40 Program Participation**

a) CMS will establish procedures governing:

- 1) the enrollment and responsibilities of State agencies participating in the purchasing card program under this Part; and
  - 2) participating agencies' issuance of purchasing cards to cardholders under this Part.
- b) Procedures adopted by CMS shall require each potential cardholder, prior to card issuance, to certify that:
- 1) the cardholder shall use the purchasing card for authorized purchases only; and
  - 2) the cardholder shall accept liability for all unauthorized purchases.

**Section 1130.50 Duties of State Agencies**

a) State agencies may participate in the purchasing card program in accordance with this Part and the procedures established by CMS.

b) A participating agency may use purchasing cards to pay for purchases of goods in accordance with this Part. A single purchasing card transaction shall not be greater than \$500. Purchasing cards shall not be used for the procurement of services or travel expenses.

c) Each participating agency shall process payments to the purchasing card vendor as provided in the uniform accounting system developed by the Comptroller.

d) Each participating agency shall develop and implement internal standards and procedures that will permit full compliance with the provisions of this Part, the Comptroller's uniform accounting system, and procedures established by CMS under this Part.

e) Each participating agency shall maintain detailed documentation regarding its purchasing card transactions in accordance with the State Records Act [5 ILCS 160].

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Section 1130.60 Compliance Audit

The Internal Auditor of each participating agency shall annually perform an audit of the purchasing card program as implemented by the participating agency.

Section 1130.70 Compliance Certification

a) The Comptroller shall establish standards for an annual certification to be provided to the Comptroller and the Auditor General by the Agency Head of each participating agency prior to use of purchasing cards by the participating agency cardholders and annually thereafter. The certification shall establish that:

- 1) sufficient internal controls exist to insure appropriate use of the purchasing card by the participating agency's cardholders;
  - 2) proper segregation of duties are in place regarding the reporting and accounting of purchasing cards;
  - 3) the participating agency maintains an adequate pre-audit and post-audit function; and
  - 4) the participating agency has appropriately addressed any findings identified by an internal or external audit relating to the participating agency's purchasing card program.
- b) The Comptroller shall refuse to issue payment of purchasing card transactions made by cardholders of a participating agency unless a current certification by the participating agency's Agency Head, as required by subsection (a) of this Section, is on file with the Comptroller.

c) The Comptroller may inspect and audit the records and supporting documentation that the participating agencies maintain and that relate to the purchasing card program established under this Part.

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1) Heading of the Part: Consumer Installment Loan Act

2) Code Citation: 38 Ill. Adm. Code 110

Section Numbers:	Proposed Action:
110.500	New Section
110.505	New Section
110.510	New Section
110.515	New Section
110.520	New Section
110.525	New Section
110.530	New Section
110.535	New Section
110.540	New Section
110.545	New Section
110.550	New Section
110.555	New Section
110.560	New Section
110.565	New Section
110.570	New Section
110.575	New Section
110.580	New Section

4) Statutory Authority: 205 ILCS 670/22

5) A Complete Description of the Subjects and Issues Involved: The rulemaking concerns regulation of Consumer Installment Loan Act licensees engaged in the business of making certain defined home equity loans.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
110.300	New Section	24 Ill. Reg. 11717, 8/11/00
110.310	New Section	24 Ill. Reg. 11717, 8/11/00
110.320	New Section	24 Ill. Reg. 11717, 8/11/00
110.330	New Section	24 Ill. Reg. 11717, 8/11/00
110.340	New Section	24 Ill. Reg. 11717, 8/11/00
110.350	New Section	24 Ill. Reg. 11717, 8/11/00
110.360	New Section	24 Ill. Reg. 11717, 8/11/00
110.370	New Section	24 Ill. Reg. 11717, 8/11/00
110.380	New Section	24 Ill. Reg. 11717, 8/11/00



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- 110.390 New Section 24 Ill. Reg. 11717, 8/11/00  
 110.400 New Section 24 Ill. Reg. 11717, 8/11/00  
 110.410 New Section 24 Ill. Reg. 11717, 8/11/00

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Sarah D. Vega  
 Director  
 Illinois Department of Financial Institutions  
 100 W. Randolph  
 Suite 15-700  
 Chicago IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some lenders may be affected by the proposed rules to the extent that those lenders are small businesses. The rule will not affect small municipalities or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rule requires certain lenders to provide additional notices to consumers, and may require additional paperwork in processing and servicing certain loans. Please review rule provisions.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The statutory authority for this rulemaking was not enacted prior to the regulatory agenda of December, 1999 and although the statutory authority was enacted in May of 2000 and prior to the July, 2000 agenda, it was not feasible to include the rulemaking on that agenda. The complexity of the issue and the need to coordinate regulatory provisions with numerous entities made it difficult to predict when, if and how the rulemaking would take place.

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS  
 CHAPTER 1: DEPARTMENT OF FINANCIAL INSTITUTIONS

## PART 110

## CONSUMER INSTALLMENT LOAN ACT

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110.15	Application for License
110.20	Loan Register
110.30	Individual Account Records
110.40	File of Original Papers
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## SUBPART B: MORTGAGE LENDING

110.500	Definitions
110.505	Applicability of Rule
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110.515	Fraudulent or Deceptive Practices
110.520	Prohibited Refinances
110.525	Negative Amortization
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110.540	Financing of Certain Points and Fees
110.545	Financing of Single Premium Insurance Products
110.550	Lending Without Due Regard to Ability to Repay
110.555	Verification of Ability to Repay
110.560	Payments to Contractors
110.565	Counseling Prior to Perfecting Foreclosure
110.570	Mortgage Awareness Program
110.575	Offer of Mortgage Awareness Program
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TABLE A Illinois Rule of 78 Fraction for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)

TABLE B Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: MORTGAGE LENDING

## Section 110.500 Definitions

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

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all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.5.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 110.505 of this Part.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.505 Applicability of Rule

This Subpart shall apply to a home equity loan in which:

- At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or
- The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, these rules shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan and to an open-end credit plan subject to subchapter B and Section 226.32 of 12 CFR 226 (2000), no subsequent dates or editions are included.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.510 Good Faith Requirements

- Any disclosure or action required by this Subpart shall be made in good faith.



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- b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Director that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for such loan for the amount, term, rate, charges and other conditions set forth in the loan application, and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.
- c) A lender who has accepted an application for a subject loan shall make a good faith effort to process the application within the time specified in the loan application.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.515 Fraudulent or Deceptive Practices**

- a) No lender shall employ fraudulent or deceptive acts or practices in the making of a subject loan, including deceptive marketing and sales efforts.
- b) No lender shall make a subject loan that calls for a prepayment penalty made:
- 1) after the expiration of the 36 month period following the date the loan was made; or
  - 2) that is more than:
    - A) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
    - B) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or
    - C) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.520 Prohibited Refinances**

No lender shall refinance any subject loan, where such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 110.525 Negative Amortization**

No lender shall make a subject loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.530 Negative Equity**

No lender shall make a subject loan, where the loan amount exceeds the equity of the property securing the loan.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.535 Balloon Payments**

No lender shall make a subject loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.540 Financing of Certain Points and Fees**

No lender shall make a subject loan that finances points and fees in excess of 6% of the total loan amount.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.545 Financing of Single Premium Insurance Products**

No lender shall make a subject loan, which finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

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(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.550 Lending Without Due Regard to Ability to Repay**

No lender shall make a subject loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.555 Verification of Ability to Repay**

No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. Such verification shall require, at a minimum, the following:

- The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Director.
- Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- A credit report is obtained regarding the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.560 Payments to Contractors**

No lender shall make a payment to a contractor under a home improvement contract other than:

- by instrument payable to the borrower or jointly to the borrower and the contractor; or
- at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 110.565 Counseling Prior to Perfecting Foreclosure**

- In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.

- The notice required under subsection (a) shall, at a minimum, include the following language notice:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DEPARTMENT OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."

- If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

- If within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of the Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

- The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.

- Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

- If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

- This Section applies only to subject loans as defined in Section 110.550.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.570 Mortgage Awareness Program**



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- a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Director.
- b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include:
- 1) Explanation of the amount financed;
  - 2) Explanation of the finance charge;
  - 3) Explanation of the annual percentage rate;
  - 4) Explanation of the total payments;
  - 5) Explanation of the loan costs including broker's fees, finance charges, points, origination fees and all other charges and fees;
  - 6) Explanation of any right of rescission;
  - 7) Explanation of foreclosure procedures;
  - 8) Explanation of the debt ratio, including total debt to income ratio, loan debt to income ratio, and loan debt to value of residence;
  - 9) Explanation of adjustable rate mortgage;
  - 10) Explanation of balloon payments;
  - 11) Explanation of credit options;
  - 12) Explanation of each item that appears on the good faith estimate;
  - 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Director.
- d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.
- e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.575 Offer of Mortgage Awareness Program**

- a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
- b) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.
- c) The borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that such waiver is in writing in a form approved by the Director.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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**Section 110.580 Third Party Review**

In the case of each subject loan, upon approval of the loan application the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Department of Financial Institutions specifically for this program:

- a) The Director shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Department.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the subject loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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1) Heading of the Part: Illinois Credit Union Act

2) Code Citation: 38 Ill. Adm. Code 190

3) Section Numbers:

190.500	<u>Proposed Action:</u>
190.505	New Section
190.510	New Section
190.515	New Section
190.520	New Section
190.525	New Section
190.530	New Section
190.535	New Section
190.540	New Section
190.545	New Section
190.550	New Section
190.555	New Section
190.560	New Section
190.565	New Section
190.570	New Section
190.575	New Section
190.580	New Section

4) Statutory Authority: 205 ILCS 305

5) A Complete Description of the Subjects and Issues Involved: The rulemaking concerns regulation of Illinois Credit Union Act licensees engaged in the business of making certain defined home equity loans.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Sarah D. Vega

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PROPOSED RULES

Director  
Illinois Department of Financial Institutions  
100 W. Randolph  
Suite 15-700  
Chicago IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some lenders may be affected by the proposed rules to the extent that those lenders are small businesses. The rule will not affect small municipalities or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rule requires certain lenders to provide additional notices to consumers, and may require additional paperwork in processing and servicing certain loans. Please review rule provisions.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was not feasible to include the rulemaking on either agenda. The complexity of the issue and the need to coordinate regulatory provisions with numerous entities made it difficult to predict when, if and how the rulemaking would take place.

The full text of the Proposed Rules begins on the next page:



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER 1: DEPARTMENT OF FINANCIAL INSTITUTIONS

## PART 190

## ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

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190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.20	Hearings
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
190.70	Loan Loss Accounting Procedures
190.80	Use of Electronic Data Processing
190.90	Fixed Asset Investments
190.100	Classes of Share and Special Purpose Share Accounts
190.110	Share Drafts
190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage
190.160	Lending Limits - Other Than First Mortgage Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.190	Liquidation
190.200	Conversion of Charter

SUBPART B: HIGH RISK HOME LOANS

190.500	Definitions
190.505	Applicability of Rule
190.510	Good Faith Requirements
190.515	Fraudulent or Deceptive Practices
190.520	Prohibited Refinances
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190.540	Financing of Certain Points and Fees
190.545	Financing of Single Premium Insurance Products
190.550	Lending Without Due Regard to Ability to Repay
190.555	Verification of Ability to Repay
190.560	Payments to Contractors
190.565	Counseling Prior to Perfecting Foreclosure

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190.570	Mortgage Awareness Program
190.575	Offer of Mortgage Awareness Program
190.580	Third Party Review

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 3051].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: HIGH RISK HOME LOANSSection 190.500 Definitions

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed under 12 CFR 276.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name

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in a tablefunded transaction, not otherwise included in 12 CFR 226.5.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 190.505.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.505 Applicability of Rule**

This Subpart shall apply to a home equity loan in which:

- a) At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or
- b) The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to subchapter B or Section 226.32 of 12 CFR 226 (2000, no subsequent dates or editions included).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.510 Good Faith Requirements**

- a) Any disclosure or action required by this Subpart shall be made in good faith.
- b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Director that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for such loan for the amount, term, rate, charges and other conditions set forth in the loan application and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.
- c) A lender who has accepted an application for a subject loan shall make

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a good faith effort to process the application within the time specified in the loan application.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.515 Fraudulent or Deceptive Practices**

- a) No lender shall employ fraudulent or deceptive acts or practices in the making of a subject loan, including deceptive marketing and sales efforts.
- b) No lender shall make a subject loan that calls for a prepayment penalty made:

1) after the expiration of the 36 month period following the date the loan was made; or

2) that is more than:

A) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or

B) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or

C) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.520 Prohibited Refinances**

No lender shall refinance any subject loan, where such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.525 Negative Amortization**

No lender shall make a subject loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.



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(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.530 Negative Equity**

No lender shall make a subject loan, where the loan amount exceeds the equity of the property securing the loan.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.535 Balloon Payments**

No lender shall make a subject loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.540 Financing of Certain Points and Fees**

No lender shall make a subject loan that finances points and fees in excess of 6% of the total loan amount.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.545 Financing of Single Premium Insurance Products**

No lender shall make a subject loan, which finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.550 Lending Without Due Regard to Ability to Repay**

No lender shall make a subject loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their

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current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.555 Verification of Ability to Repay**

No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. Such verification shall require, at a minimum, the following:

- The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Director.
- Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- A credit report is obtained regarding the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.560 Payments to Contractors**

No lender shall make a payment to a contractor under a home improvement contract other than:

- by instrument payable to the borrower or jointly to the borrower and the contractor; or
- at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 190.565 Counseling Prior to Perfecting Foreclosure**

- In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.
- The notice required under subsection (a) shall, at a minimum, include

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the following language notice:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DEPARTMENT OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."

c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.

2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

f) This Section applies only to subject loans as defined by Section 190.500.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 190.570 Mortgage Awareness Program

a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Director.

b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include:

- 1) Explanation of the amount financed;
- 2) Explanation of the finance charge;
- 3) Explanation of the annual percentage rate;

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- 4) Explanation of the total payments;
- 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees and all other charges and fees;
- 6) Explanation of any right of rescission;
- 7) Explanation of foreclosure procedures;
- 8) Explanation of the debt ratio, including total debt to income ratio, loan debt to income ratio, and loan debt to value of residence;
- 9) Explanation of adjustable rate mortgage;
- 10) Explanation of balloon payments;
- 11) Explanation of credit options;
- 12) Explanation of each item that appears on the good faith estimate;
- 13) Explanation of pre-payment penalties.

c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Director.

d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.

e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 190.575 Offer of Mortgage Awareness Program

a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.

b) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.

c) The borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that such waiver is in writing in a form approved by the Director.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 190.580 Third Party Review

In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Department of Financial Institutions specifically for this program:



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- a) The Director shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Department.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum, a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.
- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the subject loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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- 1) Heading of the Part: Sales Finance Agency Act
- 2) Code Citation: 38 Ill. Adm. Code 160

3) Section Numbers:	Proposed Action:
160.500	New Section
160.505	New Section
160.510	New Section
160.515	New Section
160.520	New Section
160.525	New Section
160.530	New Section
160.535	New Section
160.540	New Section
160.545	New Section
160.550	New Section
160.555	New Section
160.560	New Section
160.565	New Section
160.570	New Section
160.575	New Section
160.580	New Section

- 4) Statutory Authority: 205 ILCS 660/13

- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking concerns regulation of Sales Finance Agency Act licensees engaged in the business of making certain defined home equity loans.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? Yes

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Sarah D. Vega

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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Director  
 Illinois Department of Financial Institutions  
 100 W. Randolph  
 Suite 15-700  
 Chicago IL 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Some lenders may be affected by the proposed rules to the extent that those lenders are small businesses. The rule will not affect small municipalities or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed rule requires certain sales finance agencies to provide additional notices to consumers, and may require additional paperwork in processing and servicing certain loans. Please review rule provisions.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The statutory authority for this rulemaking was not enacted prior to the regulatory agenda of December, 1999 and although the statutory authority was enacted in May of 2000 and prior to the July, 2000 agenda, it was not feasible to include the rulemaking on that agenda. The complexity of the issue and the need to coordinate regulatory provisions with numerous entities made it difficult to predict when, if and how the rulemaking would take place.

The full text of the Proposed Rules begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS  
 CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

## PART 160

## SALES FINANCE AGENCY ACT

## SUBPART A: GENERAL

Section	
160.01	Application for License
160.10	Minimum Requirements for Office Records
160.20	Transaction Register
160.30	Individual Account Cards
160.40	File of Original Papers
160.50	Cash Book
160.55	Permanent File
160.60	Alphabetical Records of Buyers, Co-Purchasers and Obligor Payments
160.70	
160.80	Delinquency Charges (Default Charges)
160.90	Cancellation and Return of Documents
160.100	Extensions--Renewals--Rebates
160.110	Hypothecation of Security Instruments
160.120	Legal Forms
160.130	Judgments
160.140	Sale of Security
160.150	Trouble File
160.160	Lien Charges
160.170	Insurance
160.180	Office and Office Hours
160.190	Advertising
160.200	Business Source and Affiliates
160.210	Examination Remittances
160.220	Credit Practices
160.230	General
160.240	Hearing Procedure
160.250	Servicing of Accounts by Contract
160.260	Off-site Records

## SUBPART B: HIGH RISK HOME LOANS

160.500	Definitions
160.505	Applicability of Rule
160.510	Good Faith Requirements
160.515	Fraudulent or Deceptive Practices
160.520	Prohibited Refinances
160.525	Negative Amortization
160.530	Negative Equity
160.535	Balloon Payments



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- 160.540 Financing of Certain Points and Fees  
160.545 Financing of Single Premium Insurance Products  
160.550 Lending Without Due Regard to Ability to Repay  
160.555 Verification of Ability to Repay  
160.560 Payments to Contractors  
160.565 Counseling Prior to Perfecting Foreclosure  
160.570 Mortgage Awareness Program  
160.575 Offer of Mortgage Awareness Program  
160.580 Third Party Review

AUTHORITY: Implementing and authorized by Section 8(9) of the Sales Finance Agency Act [205 ILCS 660/8(9)].

SOURCE: Filed September 21, 1970; amended at 5 Ill. Reg. 1358, effective February 3, 1981; codified at 7 Ill. Reg. 11728; amended at 9 Ill. Reg. 1370, effective January 17, 1985; amended at 12 Ill. Reg. 17844, effective October 24, 1988; amended at 19 Ill. Reg. 49, effective December 22, 1994; emergency amendment at 22 Ill. Reg. 1543, effective January 2, 1998; amended at 22 Ill. Reg. 13699, effective July 14, 1998; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: HIGH RISK HOME LOANS

Section 160.500 Definitions

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed under 12 CFR 226.5 (2000, no subsequent dates or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.5.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 160.505.

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"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 160.505 Applicability of Rule

This Subpart shall apply to a home equity loan in which:

a) At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

b) The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to subchapter B or Section 226.32 of 12 CFR 226 (2000, no subsequent dates or editions included).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 160.510 Good Faith Requirements

a) Any disclosure or action required by this Subpart shall be made in good faith.

b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Director that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for such loan for the amount, term, rate, charges and other conditions set forth in the loan application and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.

c) A lender who has accepted an application for a subject loan shall make a good faith effort to process the application within the time specified in the loan application.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

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**Section 160.515 Fraudulent or Deceptive Practices**

- a) No lender shall employ fraudulent or deceptive acts or practices in the making of a subject loan, including deceptive marketing and sales efforts.
- b) No lender shall make a subject loan that calls for a prepayment penalty made:

- 1) after the expiration of the 36 month period following the date the loan was made; or
- 2) that is more than:
  - A) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or
  - B) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or
  - C) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.520 Prohibited Refinances**

No lender shall refinance any subject loan, where such refinancing charges additional points and fees, within a 12 month period after the refinanced loan was originated, unless the refinancing results in a financial benefit to the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.525 Negative Amortization**

No lender shall make a subject loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.530 Negative Equity**

No lender shall make a subject loan, where the loan amount exceeds the equity

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**Section 160.535 Balloon Payments**

No lender shall make a subject loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

**Section 160.540 Financing of Certain Points and Fees**

No lender shall make a subject loan that finances points and fees in excess of 6% of the total loan amount.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.545 Financing of Single Premium Insurance Products**

No lender shall make a subject loan, which finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly, insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 160.550 Lending Without Due Regard to Ability to Repay**

No lender shall make a subject loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal,

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.555 Verification of Ability to Repay

No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. Such verification shall require, at a minimum, the following:

- a) The lender, with information provided by the borrower, prepares a personal income and expense statement in a form prescribed by the Director.
- b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.
- c) A credit report is obtained regarding the borrower.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.560 Payments to Contractors

No lender shall make a payment to a contractor under a home improvement contract other than:

- a) by instrument payable to the borrower or jointly to the borrower and the contractor; or
- b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.565 Counseling Prior to Perfecting Foreclosure

- a) In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.
- b) The notice required under subsection (a) shall, at a minimum, include the following language notice:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DEPARTMENT OF FINANCIAL

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INSTITUTIONS AT 1-888-298-8089."

- c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

- d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

- 1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.

- 2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

- e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

- f) This Section applies only to subject loans as defined by Section 160.500.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.570 Mortgage Awareness Program

- a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Director.

- b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include:

- 1) Explanation of the amount financed;
- 2) Explanation of the finance charge;
- 3) Explanation of the annual percentage rate;
- 4) Explanation of the total payments;
- 5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees and all other charges and fees;
- 6) Explanation of any right of rescission;
- 7) Explanation of foreclosure procedures;
- 8) Explanation of the debt ratio, including total debt to income



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ratio, loan debt to income ratio, and loan debt to value of residence;

- 9) Explanation of adjustable rate mortgage;
  - 10) Explanation of balloon payments;
  - 11) Explanation of credit options;
  - 12) Explanation of each item that appears on the good faith estimate;
  - 13) Explanation of pre-payment penalties.
- c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Director.
- d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.
- e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.575 Offer of Mortgage Awareness Program

- a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.
- b) No lender shall offer less favorable loan terms to a borrower due to a borrower participating in a Mortgage Awareness Program.
- c) The borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that such waiver is in writing in a form approved by the Director.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 160.580 Third Party Review

In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Department of Financial Institutions specifically for this program:

- a) The Director shall establish a loan worksheet and a system for review of loan terms to be performed by staff of the Department.
- b) Every borrower shall submit information requested on the worksheet, including but not limited to information regarding the borrower's financial status and budget and the terms of the loan.
- c) The review of the worksheet shall provide the borrower, at a minimum,

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a projection of the amount of each payment for the loan, taking into account balloon payments and adjustable interest rates. The review shall also inform the borrower of the amount of monthly payment the borrower can afford within the borrower's budget.

- d) The results of the review shall be in the form of a written report, with a signature of the borrower acknowledging receipt of a copy of the report. A copy of the written and signed report shall be submitted to the lender prior to the closing of the loan, and shall become a part of the permanent file for the loan.
- e) If, in the opinion of the reviewer of the subject loan documentation, the loan does not make economic sense to the borrower, the reviewer shall so note this in the results of the review sent to the lender. This finding shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Numbers:  
113.253 Proposed Action:  
113.260 Amendment  
Amendment

4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and 20 CFR 416.2096.

5) A Complete Description of the Subjects and Issues involved: A grant adjustment is an allowance for Aid to the Aged, Blind or Disabled cases that ensures that the amount of the Supplemental Security Income (SSI) increase from July 1977 and later will be available to clients. To comply with federal regulations, this rulemaking increases the grant adjustment and sheltered care/personal or nursing care rate amounts by the amount of the increase in Social Security and SSI benefits to ensure that the cost of living increase is passed on to the recipient. Persons receiving both SSA and SSI will receive a total increase of \$18 for both benefits. The increase is received in the January 2001 SSA/SSI checks.

As a result of the \$18 increase in January 2001 SSA/SSI benefits, these amendments increase the grant adjustment and the sheltered care/personal or nursing care rates by \$18.

6) Will these proposed amendments replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Mrs. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
(217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: August 2000

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
 SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 113

## AID TO THE AGED, BLIND OR DISABLED

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 113.1 Description of the Assistance Program  
 113.5 Incorporation By Reference

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 113.20 Residence  
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## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

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 113.101 Budgeting Unearned Income  
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 113.103 Initial Receipt of Unearned Income  
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 113.105 Unearned Income In-Kind  
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 113.107 Lump Sum Payments and Income Tax Refunds  
 113.108 Protected Income (Repealed)  
 113.109 Earned Income (Repealed)  
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 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision  
 113.115 Initial Employment  
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Budgeting Earned Income For Non-contractual School Employees  
 Termination of Employment

113.117 Exempt Earned Income  
 113.118 Recognized Employment Expenses  
 113.120 Income From Work/Study/Training Programs  
 113.125 Earned Income From Self-Employment  
 113.131 Earned Income From Roomer and Boarder  
 113.132 Earned Income From Rental Property  
 113.133 Earned Income In-Kind  
 113.134 Payments from the Illinois Department of Children and Family Services  
 113.139 Assets  
 113.140 Exempt Assets  
 113.141 Asset Disregard  
 113.142 Deferral of Consideration of Assets  
 113.143 Property Transfers For Applications Filed Prior To October 1, 1989  
 113.154 (Repealed)  
 113.155 Property Transfers For Applications Filed On Or After October 1, 1989  
 113.156 Court Ordered Child Support Payments of Parent/Step-Parent  
 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96  
 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On Or After 8/22/96  
 113.160 Assignment of Medical Support Rights

## SUBPART D: PAYMENT AMOUNTS

Section  
 113.245 Payment Levels for AABD  
 113.246 Personal Allowance  
 113.247 Personal Allowance Amounts  
 113.248 Shelter  
 113.249 Utilities and Heating Fuel  
 113.250 Laundry  
 113.251 Telephone  
 113.252 Transportation, Lunches, Special Fees  
 113.253 Allowances for Increase in SSI Benefits  
 113.254 Nursing Care or Personal Care in Home Not Subject to Licensing  
 113.255 Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility  
 113.256 Shopping Allowance  
 113.257 Special Allowances for Blind and Partially Sighted (Blind Only)  
 113.258 Home Delivered Meals  
 113.259 AABD Fuel and Utility Allowances By Area  
 113.260 Sheltered Care/Personal or Nursing Care Rates  
 113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## 113.262 Meeting the Needs of an Ineligible Dependent with Client's Income

## SUBPART E: OTHER PROVISIONS

## Section

113.300 Persons Who May Be Included In the Assistance Unit

113.301 Grandfathered Cases

113.302 Interim Assistance (Repealed)

113.303 Special Needs Authorizations

113.304 Retrospective Budgeting

113.305 Budgeting Schedule

113.306 Purchase and Repair of Household Furniture (Repealed)

113.307 Property Repairs and Maintenance

113.308 Excess Shelter Allowance

113.309 Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)

113.320 Redetermination of Eligibility

113.330 Attorney's Fees for VA Appellants (Repealed)

## SUBPART F: INTERIM ASSISTANCE

## Section

113.400 Description of the Interim Assistance Program

113.405 Pending SSI Application (Repealed)

113.410 More Likely Than Not Eligible for SSI (Repealed)

113.415 Non-Financial Factors of Eligibility (Repealed)

113.420 Financial Factors of Eligibility (Repealed)

113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)

113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)

113.435 Medical Eligibility (Repealed)

113.440 Attorney's Fees for SSI Applicants (Repealed)

113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)

113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)

113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33,

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 5, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended

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## NOTICE OF PROPOSED AMENDMENTS

at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg.

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3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19331, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: PAYMENT AMOUNTS

## Section 113.253 Allowances for Increase in SSI Benefits

- a) An allowance for \$351.90 #933-90 is authorized for all AABD cases as a "grant adjustment". A grant adjustment is an allowance that ensures that the amount of the SSI increase from July 1977 and later will be available to clients.
- b) EXCEPTIONS: For clients whose assistance payments include an allowance for Sheltered Care or Care Not Subject to Licensing a "grant



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

adjustment" of \$10 is authorized. Individuals receiving Interim Assistance or residing in long term group care facilities do not receive any "grant adjustment".

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 113.260 Sheltered Care/Personal or Nursing Care Rates

Group A Counties		Needs Assessment	Group B Counties	
\$ 839.55	821-55	0-7	\$ 851.55	833-55
844.55	826-55	8	857.55	839-55
849.55	831-55	9	863.55	845-55
854.55	836-55	10	869.55	851-55
859.55	841-55	11	875.55	857-55
864.55	846-55	12	881.55	863-55
869.55	851-55	13	887.55	869-55
874.55	856-55	14	893.55	875-55
879.55	861-55	15	899.55	881-55
884.55	866-55	16	905.55	887-55
889.55	871-55	17	911.55	893-55
894.55	876-55	18	917.55	899-55
899.55	881-55	19	923.55	905-55
904.55	886-55	20	929.55	911-55
909.55	891-55	21	935.55	917-55
914.55	896-55	22	941.55	923-55
919.55	901-55	23	947.55	929-55
924.55	906-55	24	953.55	935-55

a) Group A Counties are counties other than Cook, DuPage, Kane, Lake and Will.

b) Group B Counties are Cook, DuPage, Kane, Lake and Will.

c) Rate includes shelter factor and approved activity and social rehabilitation programs.  
AGENCY NOTE: See 89 Ill. Adm. Code 140.850 through 140.885 for needs assessment guidelines.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: 148.296 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].

5) Complete Description of the Subjects and Issues Involved: These proposed amendments are intended to add Tertiary Care Adjustment Payments to the Department's reimbursement provisions for hospital services. These payments will be made to eligible hospitals enrolled in the Medical Assistance Program, but excluding county owned hospitals and hospitals organized under the University of Illinois Hospital Act.

Tertiary Care Adjustment Payments will be made for higher level, complex medical care. The payments will be composed of six separate adjustments, including Case Mix Index Adjustments, Diagnosis Related Grouping (DRG) Adjustments, Children's Hospital Adjustments, Primary Care Adjustments, Long Term Stay Hospital Adjustments and Rehabilitation Hospital Adjustments. These adjustments and their associated reimbursement methodologies are described in the proposed amendments.

The amendments also eliminate the language in Section 148.296 that relates to Supplemental Critical Hospital Adjustment Payments (SCHAP). All of the text relating to SCHAP has been stricken because the sunset date for these time-limited adjustment payments was September 30, 1999 (see stricken Section 148.296(f)).

Tertiary Care Adjustment Payments are expected to provide greater access to essential and complex health care services for Medical Assistance clients. Appropriations for these payments allow for an expenditure in fiscal year 2001 of \$17.5 million. It is anticipated that the annual expenditure for each year thereafter will be approximately \$70 million.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.



DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Tenth Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Eligible hospitals, but excluding county owned hospitals and hospitals organized under the University of Illinois Hospital Act

B) Reporting, bookkeeping or other procedures required for compliance:  
None

DEPARTMENT OF PUBLIC AID

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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148  
HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285	Excellence in Academic Medicine Payments

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Adjustments and Reductions to Total Payments  
Critical Hospital Adjustment Payment (CHAP)  
Tertiary Care Supplemental--Critical--Hospital Adjustment Payments  
(SEHAP)

148.290	Pediatric Outpatient Adjustment Payments
148.295	Pediatric Inpatient Adjustment Payments
148.296	Payment
148.297	Review Procedure
148.310	Alternatives
148.320	Exemptions
148.330	Subacute Alcoholism and Substance Abuse Treatment Services
148.340	Definitions (Repealed)
148.350	Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.360	Volume Adjustment (Repealed)
148.368	Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.370	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.380	Hearings
148.390	Special Hospital Reporting Requirements
148.400	

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17

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Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 148.296 Tertiary Care Supplemental--Critical--Hospital Adjustment Payments (SCHAR)

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Tertiary Care Adjustment Payments shall be made to all eligible hospitals, excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after April 1, 2001, in accordance with this Section.

a) Definitions. The definitions of terms used with reference to calculation of payments under this Section are as follows:

1) "Base Period Claims" means claims for inpatient hospital services with dates of service occurring in the Tertiary Adjustment Base Period that were subsequently adjudicated by the Department through December 31, 1999. For a general care hospital that includes a facility devoted exclusively to caring for children and that was separately licensed as a hospital by a municipality before September 30, 1998, Base Period Claims for services that may, in 89 Ill. Adm. Code 149.50(c)(3), be billed by a children's hospital shall be attributed exclusively to the children's facility. Base Period Claims shall exclude the following types:

A) Claims for which Medicare was liable in part or in full ("cross-over" claims);

B) Claims for transplantation services that were paid by the Department via form C-13, Invoice Voucher; and

C) Claims for services billed under categories of service 037 and 038 (exceptional care services).

2) "Case Mix Index" (CMI), for a given hospital, means the sum of all Diagnosis Related Grouping (DRG) (see 89 Ill. Adm. Code 149) weighting factors for Base Period Claims divided by the total number of claims included in the sum, but excluding claims:

A) Reimbursed under a per diem rate methodology; and

B) For Delivery or Newborn Care.

3) "Case Mix Adjustment Factor" (CMAF) means the following:

A) For qualifying hospitals located in Illinois that, for Base Period Claims, had a CMI that is greater than the mean:

i) CMI of all cost-reporting hospitals, but less than that mean plus a one standard deviation above the mean, the CMAF shall be equal to 0.040;

ii) CMI plus one standard deviation above the mean of all cost-reporting hospitals, but less than that mean plus two standard deviations above the mean, the CMAF shall be equal to 0.250;

iii) CMI plus two standard deviations above the mean of all cost-reporting hospitals, the CMAF shall be equal to 0.300.

B) For qualifying hospitals located outside of Illinois that, for Base Period Claims, had a CMI that is greater than the mean:

i) CMI of all out-of-state cost-reporting hospitals, but less than that mean plus a one standard deviation above the mean, the CMAF shall be equal to 0.020;



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- ii) CMI plus one standard deviation above the mean of all out-of-state cost reporting hospitals, but less than that mean plus two standard deviations above the mean, the CMAF shall be equal to 0.125;
- iii) CMI plus two standard deviations above the mean of all out-of-state cost reporting hospitals, the CMAF shall be equal to 0.150.

- 4) "Delivery or Newborn Care" means inpatient hospital care, the claim for which was assigned by the Department to DRGs 370 through 375, 385 through 387, 389, 391 and 985 through 989.
- 5) "Tertiary Adjustment Base Period" means calendar year 1989.
- 6) "Tertiary Care Adjustment Rate Period" means, for fiscal year 2001, the three-month period beginning April 1, 2001, and for each subsequent fiscal year, the twelve-month period beginning July 1.

## b) Case Mix Adjustment

The Department shall make a Case Mix Adjustment to certain hospitals, as defined in this subsection (b).

- 1) Qualifying Hospital. A hospital meeting both of the following criteria shall qualify for this payment:

- A) A hospital that had 100 or more Qualified Admissions; and
- B) For a hospital located:

- i) in Illinois, has a CMI greater than or equal to the mean CMI for Illinois hospitals; or
- ii) outside of Illinois, has a CMI greater than or equal to the mean CMI for out-of-state cost-reporting hospitals.

- 2) Qualified Admission. For the purposes of this subsection (b), Qualified Admission shall mean a Base Period Claim excluding a claim:

- A) Reimbursed under a per diem rate methodology; and
- B) For Delivery or Newborn Care.

- 3) Case Mix Adjustment. Each Qualifying Hospital will receive a payment equal to:

- A) The product of the hospital's:
- i) number of Qualified Admissions; and
- ii) CMAF; and
- B) The sum of the hospital's:
- i) rate for capital related costs in effect on July 1, 2000; and
- ii) the product of the hospital's CMI raised to the second power and the DRG PPS (Prospective Payment System) [see 89 Ill. Adm. Code 149] rate per discharge in effect on July 1, 2000.

## c) DRG Adjustment

The Department shall make a DRG Adjustment to certain hospitals, as defined in this subsection (c).

- 1) Qualifying Hospital. A hospital that, during the Tertiary

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Adjustment Base Period, had at least one Qualified Admission shall qualify for this payment.

- 2) Qualified Admission. For the purposes of this subsection (c), Qualified Admission means a Base Period Claim that was:

- A) Assigned by the Department to a DRG that:

- i) had been assigned a weighting factor greater than 3.2000; and

- ii) for which fewer than 200 Base Period Claims were adjudicated by the Department; and

- B) Not a claim:

- i) reimbursed under a per diem rate methodology;

- ii) for Delivery or Newborn Care; or

- iii) with a patient status code of 02 (patient transferred to another short term hospital).

- 3) DRG Adjustment Rates. For each Qualified Admission, a Qualifying Hospital will receive a payment equal to the product of:

- A) The hospital's DRG PPS rate per discharge in effect on July 1, 2000; and

- B) The weighting factor assigned to the DRG to which the Qualified Admission was assigned by the Department; and

- C) The constant 1.400.

## d) Children's Hospital Adjustment

The Department shall make a Children's Hospital Adjustment to certain hospitals, as defined in this subsection (d).

- 1) Qualifying Hospitals. A children's hospital, as defined at 89 Ill. Adm. Code 149.50(c)(3), shall qualify for this payment.

- 2) Qualified Days. For the purposes of this subsection (d), Qualified Day means a day of care that was provided in a Base Period Claim, excluding a claim:

- A) For Delivery or Newborn Care;

- B) Assigned by the Department to a DRG with an assigned weighting factor that is less than 1.0000; or

- C) Billed to the Department under category of service 021 (hospital inpatient psychiatric services) or 022 (hospital inpatient rehabilitation services).

- 3) Children's Hospital Adjustment. A Qualifying Hospital shall receive a payment equal to the product of:

- A) The sum of Qualified Days from the hospital's Base Period Claims; and

- B) For hospitals with:

- i) more than 5,000 Qualified Days, \$670; or

- ii) 5,000 or fewer Qualified Days, \$300.

## e) Primary Care Adjustment

The Department shall make a Primary Care Adjustment to certain hospitals, as defined in this subsection (e).

- 1) Qualifying Hospital. A hospital located in Illinois that has at least one Qualifying Resident.

- 2) Qualifying Residents. The number of primary care residents, as

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reported on form HCFA 2552-96, Worksheet E-3, Part IV, line 1, column 1, for hospital fiscal years ending September 30, 1997, through September 29, 1998.

- 3) Qualified Admission. For the purposes of this subsection (e), Qualified Admission shall mean a Base Period Claim excluding a claim:

- A) Billed to the Department under category of service 021 (hospital inpatient psychiatric services) or 022 (hospital inpatient physical rehabilitation services) and reimbursed under a per diem rate methodology; and
- B) For Delivery or Newborn Care.

- 4) Primary Care Adjustment. A Qualifying Hospital will receive a payment equal to the product of:

- A) The number of Qualifying Admissions during the Tertiary Adjustment Base Period;

- B) \$4,675; and

- C) The quotient of:

- i) the number of Qualifying Residents;

- ii) divided by the number of Qualifying Admissions.

- f) Long Term Stay Hospital Adjustment

The Department shall make a Long Term Stay Hospital Adjustment to certain hospitals, as defined in this subsection (f).

- 1) Qualifying Hospital. A long term stay hospital, as defined at 89 Ill. Adm. Code 149.50(C)(4), that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals, shall qualify for this payment.

- 2) Qualified Days. For the purposes of this subsection (f), Qualified Day means a day of care that was provided in a Base Period Claim, excluding claims billed to the Department under category of service of 021 (hospital inpatient psychiatric services) or 022 (hospital inpatient physical rehabilitation services).

- 3) Long Term Stay Hospital Adjustment Rates. A Qualifying Hospital will receive payments equal to the product of:

- A) The number of Qualified Days from all Base Period Claims; and

- B) A constant that:

- i) for a hospital that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals plus one standard deviation above the mean, \$300; or
- ii) for a hospital that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals, but less than one standard deviation above that mean, \$5.

- g) Rehabilitation Hospital Adjustment

The Department shall make a Rehabilitation Hospital Adjustment to certain hospitals as defined in this subsection (g).

- 1) Qualifying Hospital. A hospital that qualifies for the

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Rehabilitation Hospital Adjustment under the Critical Hospital Adjustment Payments (CHAP) program, as defined in Section 148.295(b), shall qualify for this payment.

- 2) Qualified Admission. For the purposes of this subsection (g), Qualified Admission shall mean a Medicaid level I rehabilitation admission in the CHAP rate period, as defined in Section 148.295, for fiscal year 2001.

- 3) Rehabilitation Hospital Adjustment. A Qualifying Hospital shall receive payment as follows:

- A) For a hospital that had fewer than 60 Qualified Admissions, \$100,000.

- B) For a hospital that had 60 or more Qualified Admissions, \$350,000.

- h) Tertiary Care Adjustment

- 1) The total annual adjustment to an eligible hospital shall be the sum of the adjustments for which the hospital qualifies under subsections (a) through (g) of this Section.

- 2) A total annual adjustment amount shall be paid to the hospital during the Tertiary Care Adjustment Rate Period in installments on, at least, a quarterly basis.

- 3) For fiscal year 2001 only, one-fourth of the total annual adjustment amount determined under this Section shall be paid during the fiscal year 2001 Tertiary Care Adjustment Rate Period.

Supplemental-Critical-Hospital-Adjustment-Payments (SCHAP) shall be made to all eligible hospitals--excluding--county-owned hospitals--as described in Section 148-25(b)(1)(A)--hospitals organized under the University of Illinois Hospital Act--as described in Section 148-25(b)(1)(B)--hospitals described in 89-III-Adm--Code-149-50(c)(1)-(c)(2)-(c)(3)-(c)(4)--and hospitals described in--Section 148-120(a)(3)--not--meeting--the criteria in subsection (a)(3) or (a)(4) below for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section:

- a) to qualify for payments under this Section, a hospital must be located in Health Service Area (HSA) 6 or HSA 11 and satisfy one of the following criteria during the Supplemental-CHAP base period:

- 1) A hospital's:

- A) Medicaid-obstetrical--care--admissions--are greater than or equal to--the mean--number--of--Medicaid--obstetrical--care admissions for all hospitals located within the--same--health facilities planning area;

- B) total--critical-weighting-factor is greater than or equal to the mean total critical-weighting factors of--all--hospitals located within the same HSA; and

- C) Medicaid--inpatient--Utilization--Rate--(MUR)--is greater than or equal to the mean MUR of all--hospitals--located within the same HSA;

- 2) A hospital has:

- A) 3988 or more total Medicaid admissions;

- B) an occupancy percentage rate greater than the mean occupancy



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percentage--rate,--as--defined--by--the--Department--of--Public Health,--of--all--hospitals--within--the--same--HSA,--and

- 3) A) an-MIUR-greater-than-or-equal-to-50-percent;  
 A-hospital-is--a--children's--hospital,--as--defined--in--Section 140-120(a)(5),--and--has--an--MIUR--greater--than--or--equal--to--80 percent;

- 4) A-hospital-is-located-in-a-health-facilities-planning-area--where all--hospitals--also--are--located--in--a--Health--Professional--Shortage Area--(HPSA),--as--designated--in--the--Federal--Register--for--the Supplemental--CHAP--base--period,--and--has--the--greatest--number--of Medicaid--obstetrical--care--admissions--among--all--hospitals--within that--same--health--facilities--planning--area;

- 5) A-hospital-provides-at-least-900-Medicaid-obstetrical-admissions and--possesses--an--MIUR--that--is--greater--than--or--equal--to--70 percent;

- 6) A-hospital--has--an--MIUR--that--is--greater--than--or--equal--to--75 percent;

- 7) A-hospital--with--a--level--II--perinatal--center--with--an--average length-of-stay--that--is--less--than--4.6--days--and--a--cost--to--day--ratio of--\$650--or--less,--as--described--in--Section--140-295(c)(2)(A)(iii),--  
 8) A--children's--hospital,--as--described--at--89--Ill.--Adm.--Code 140-50(c)(3)--with--4500--or--more--total--Medicaid--admissions--during the--Supplemental--CHAP--base--period;

- b) The-Department-will-make-payments--during--the--CHAP--rate--period--to qualifying--SCHAP--hospitals--under--the--following--methodology:

- i) For--hospitals--qualifying--under--subsection--(a)(1) above--that--are located--in--HSA-6,--the--payment--shall--equal--the--product--of--the total--Medicaid--admissions--multiplied--by:

A) \$620--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--one standard--deviation--above--the--mean--MIUR--of--all hospitals--within--HSA-6;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--one--standard--deviation--above--the--mean of--the--total--critical--weighting--factor--for--all hospitals--within--HSA-6;

B) \$615--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--one-half standard--deviation,--but--less--than--one--standard deviation,--above--the--mean--MIUR--of--all--hospitals--within HSA-6;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--one-half--standard--deviation,--but--less than--one--standard--deviation,--above--the--mean--total critical--weighting--factor--of--all--hospitals--within--HSA 6;

e) \$610--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--but

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less--than--one-half--standard--deviation--above--the--mean MIUR--of--all--hospitals--within--HSA-6;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--but--less--than--one-half--standard deviation--above--the--mean--total--critical--weighting factor--of--all--hospitals--within--HSA-6;

- 2) For--hospitals--qualifying--under--subsection--(a)(1) above--that--are located--in--HSA-11,--the--payment--shall--equal--the--product--of--the total--Medicaid--admissions--multiplied--by:

A) \$835--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--one standard--deviation--above--the--mean--MIUR--of--all hospitals--within--HSA-11;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--one--standard--deviation--above--the--mean of--the--total--critical--weighting--factor--for--all hospitals--within--HSA-11;

B) \$735--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--one-half standard--deviation,--but--less--than--one--standard deviation--above--the--mean--MIUR--of--all--hospitals--within HSA-11;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--one-half--standard--deviation--but--less than--one--standard--deviation--above--the--mean--total critical--weighting--factor--of--all--hospitals--within--HSA 11;

C) \$700--for--hospitals--that:

- i) have--an--MIUR--that--is--greater--than--or--equal--to--but less--than--one-half--standard--deviation--above--the--mean MIUR--of--all--hospitals--within--HSA-11;--and

- ii) have--a--total--critical--weighting--factor--that--is--greater than--or--equal--to--but--less--than--one-half--standard deviation--above--the--mean--total--critical--weighting factor--of--all--hospitals--within--HSA-11;

- 3) For--hospitals--qualifying--under--subsection--(a)(2) above--the payment--shall--equal--the--product--of--the--total--Medicaid--admissions multiplied--by--\$875;

- 4) For--hospitals--qualifying--under--subsection--(a)(3) above--the payment--shall--equal--the--product--of--the--total--Medicaid--days multiplied--by--\$125;

- 5) For--hospitals--qualifying--under--subsection--(a)(4) above--the payment--shall--equal--the--product--of--the--total--Medicaid--days multiplied--by--\$99.50;

- 6) For--hospitals--qualifying--under--subsection--(a)(5) above--and located--in--HSA-6,--the--payment--shall--equal--the--product--of--the total--Medicaid--admissions--multiplied--by--\$875;

- 7) For--hospitals--qualifying--under--subsection--(a)(5) above--and



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- located in HSA-117-the payment shall equal the product of the total-Medicare admissions multiplied by \$835:
- 8) For hospitals qualifying under subsection (a)(6)-above-and located in HSA-67-the payment shall equal the product of the total-Medicare admissions multiplied by \$430:
- 9) For hospitals qualifying under subsection (a)(6)-above-and located in HSA-117-the payment shall equal the product of the total-Medicare admissions multiplied by \$480:
- c) A hospital may only receive payments under one of the payment methodologies described in subsection (b) above in the event that a hospital qualifies under more than one criterion under subsection (a) of this Section; the Department will reimburse the hospital using the payment methodology that allows the largest payment:
- d) For any hospital that meets any of the payment criteria under subsection (b) above the Department will increase the SCHAP payment if during the Supplemental-CHAP base period, a hospital meets either or both of the conditions under subsection (a)(1) or (d)(2) below:
- i) A hospital has:
- A) Medicaid-obstetrical-care admissions greater than or equal to the mean number of Medicaid-obstetrical-care admissions of all hospitals located in the qualifying hospital's HSA;
- B) A total-critical-weighting factor that is greater than or equal to the mean total-critical-weighting factor of all hospitals located in the qualifying hospital's HSA; and
- C) An MIUR greater than or equal to the mean MIUR of all hospitals located in the qualifying hospital's HSA:
- 2) A hospital has an MIUR greater than or equal to 70 percent:
- e) Additional-SCHAP payments shall be paid under the following methodologies:
- 1) For hospitals qualifying under subsection (d)(1)-above-and located in HSA-67-the payment shall equal the product of \$40 multiplied by the hospital's total-SCHAP admissions:
- 2) For hospitals qualifying under subsection (d)(1)-above-and located in HSA-117-the payment shall equal the product of \$485 multiplied by the hospital's total-SCHAP admissions:
- 3) For hospitals qualifying under subsection (d)(2)-above-and located in HSA-67-the payment shall equal the product of \$385 multiplied by the hospital's total-SCHAP admissions:
- 4) For hospitals qualifying under subsection (d)(2)-above-and located in HSA-117-the payment shall equal the product of \$330 multiplied by the hospital's total-SCHAP admissions:
- 5) For hospitals qualifying under subsection (a)(7)-above-an additional payment shall be made that equals the product of \$150 multiplied by the number of BHA days in the Supplemental-CHAP base period:
- 6) For hospitals qualifying under subsection (a)(8)-above-an additional payment shall be made that equals the product of \$435 multiplied by the total-Medicare admissions in the Supplemental

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- CHAP base period:
- f) Payments in this Section 148-296 shall end on September 30, 1999:
- g) SCHAP payments under this Section shall be paid on a quarterly basis:
- h) Definitions:
- i) "Supplemental-CHAP-base-period" means services provided during State Fiscal Year 1995 and adjudicated by the Department by June 30, 1996:
- j) "CHAP-rate-period" as used in this Section has the same meaning as defined in Section 148-295(j)(2):
- k) "Medicaid-inpatient-Utilization-Rate (MIUR)" as used in this Section has the same meaning as defined in Section 148-120(k)(5) in effect for the rate period October 1, 1996 through September 30, 1997:
- 4) "Medicaid-obstetrical-care admissions" as used in this Section has the same meaning as defined in Section 148-295(j)(9) for the Supplemental-CHAP base period:
- 5) "Medicaid-psychiatric admissions" as used in subsection (h)(10) below means hospital inpatient admissions for the Supplemental-CHAP base that are billed to the Department with a category of service 21:
- 6) "Medicaid-rehabilitation admissions" as used in subsection (h)(10) below means hospital inpatient admissions for the Supplemental-CHAP base that are billed to the Department with a category of service 32:
- 7) "Total critical-weighting factor" as used in this Section has the same meaning as sum of the critical-weighting factors as defined in Section 148-295(e)(2)(A) for the Supplemental-CHAP base period:
- 8) "Total-Medicare admissions" means hospital inpatient admissions for the Supplemental-CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns and Medicare/Medicaid crossover admissions:
- 9) "Total-Medicare days" means hospital days for the Supplemental-CHAP base period for recipients of medical assistance under Title XIX of the Social Security Act, excluding days for normal newborns and Medicare/Medicaid crossover days:
- 10) "Total-SCHAP admissions" means total-Medicare admissions that include-Medicare-psychiatric admissions and-Medicare-rehabilitation admissions for the Supplemental-CHAP base period multiplied by a factor of two:

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:  
140.445 Amendment  
140.446 Amendment  
140.447 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 91-0712.

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules concerning pharmacy services are intended to implement certain budgetary constraints in response to a recent unanticipated increase in drug costs. These cost containment measures are intended to allow the maintenance of essential pharmacy services while controlling costs and respecting appropriation limitations.

The Department's plan for controlling drug expenditures includes several changes in the current reimbursement methodology. In Section 140.445, the Department is adding an additional method for determining the maximum price paid for prescription drugs. Under the new reimbursement plan, calculations will be based on the wholesale acquisition cost plus a percentage for brand name and generic drugs. Reimbursement changes in Section 140.447 coincide with these changes. In Section 140.446, changes are being made to reduce costs associated with over-the-counter items by utilization of the average wholesale price plus a percentage.

As a result of these changes concerning drug reimbursement, the Department anticipates that annual expenditures will decrease by approximately \$35 million.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.21	Amendment	24 Ill. Reg. 14593, 10/6/00
140.22	Amendment	24 Ill. Reg. 14593, 10/6/00
140.416	Amendment	24 Ill. Reg. 18486, 12/22/00
140.417	Amendment	24 Ill. Reg. 18486, 12/22/00

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- 140.418 Amendment 24 Ill. Reg. 18486, 12/22/00
- 140.494 Amendment 24 Ill. Reg. 11539, 8/4/00

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Pharmacy and physician providers in the

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## Department's Medical Assistance Program

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the proposed amendments is identical to the text of the emergency amendments which appears in this issue of the Illinois Register on page 1171:

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## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Structural Pest Control Code

2) Code Citation: 77 Ill. Adm. Code 830

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
830.10	Amendment
830.20	Amendment
830.100	Amendment
830.110	Amendment
830.120	Amendment
830.130	Amendment
830.140	Amendment
830.710	Amendment
830.880	Repeal
830.885	Repeal
830.890	Repeal
830.900	Repeal

4) Statutory Authority: Structural Pest Control Act [225 ILCS 235].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will reduce the regulatory burden for individuals applying for licensing, registration or certification to engage in structural pest control. The amendments eliminate requirements for applicants to file duplicate copies of application forms, eliminate an examination reservation form, and reduce the application deadline from 30 to 15 days before the examination date. The amendments also eliminate the bird control requirements (Subpart H), which were put into place to protect wildlife, particularly endangered species, from the hazards associated with the use of pesticides containing the active ingredient Fenthion to control nuisance bird populations. Regulation of avicides used for nuisance bird control is no longer needed because registration, sale and use of the only bird control product containing Fenthion was canceled by the U.S. EPA on March 1, 1999.

6) Will this Rulemaking Replace an Emergency Rulemaking Currently in Effect?  
No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? Yes

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: No adverse impact on local governments.

11) Time, Place, and Manner in which Interested Persons May Comment on this



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Rulemaking:

Interested persons may present their comments concerning these rules by writing, within 45 days after this issue of the *Illinois Register*, to:

Paul Thompson  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217-782-2043

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Paul Thompson at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Structural Pest Control Businesses

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:  
None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

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## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER O: PEST CONTROL

## PART 830

## STRUCTURAL PEST CONTROL CODE

## SUBPART A: GENERAL

Section  
830.10 Definitions  
830.20 Referenced Materials

## SUBPART B: GENERAL REQUIREMENTS

Section  
830.100 License Application for Commercial Structural Pest Control Business  
Location  
830.110 Registration Application for Non-Commercial Structural Pest Control  
Location  
830.120 Application for Examination as a Certified Structural Pest Control Technician  
830.130 Re-examination Applications  
830.140 Application of Certified Technicians for Examination in Other Sub-categories  
Processing (Repealed)  
830.150 Approved Applications (Repealed)  
830.160 Disapproved Applications (Repealed)  
830.170 License and Registration Renewals  
830.180 Change of Business Ownership  
830.190 Certification Renewals  
830.200 Late Filing Charge  
830.210 Non-renewal of Technician Certificates  
830.220 Certified Technician at Each Location  
830.230 Change of Certified Technician at Place of Employment  
830.240 Certificates of Insurance  
830.250 Insurance Coverage  
830.260 Supervision of a Non-certified Technician  
830.270 Inspections and Investigations (Repealed)  
830.280 Classification of Pesticides  
830.290 Application for Certification in Illinois as a Structural Pest Control Technician by Reciprocity  
830.300 Display of License, Registration and Certification  
830.310 Procedures for Certification as a Structural Pest Control Technician in Wood Products Pest Control (Repealed)

## SUBPART C: EXAMINATIONS

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Section  
830.400 General Provisions  
830.410 Examinations  
830.420 Examination Schedules (Repealed)  
830.430 Grades  
830.440 Notification of Examination Results  
830.450 Confidentiality of Examination Scores  
830.460 Examinee's Review of Examination

## SUBPART D: PEST CONTROL COURSES

Section  
830.500 Application  
830.510 Application (Repealed)  
830.520 Instructors  
830.530 Pest Control Course Description  
830.540 Record of Completion  
830.550 Pest Control Course Evaluation  
830.560 Approval (Repealed)  
830.570 Disapproval of an Application or Recision of Approval (Repealed)

## SUBPART E: PEST CONTROL TRAINING SEMINARS (RECERTIFICATION)

Section  
830.600 Application  
830.610 Application (Repealed)  
830.620 Instructors  
830.630 Pest Control Seminars  
830.640 Record of Completion  
830.650 Pest Control Seminar Evaluation  
830.660 Approval (Repealed)  
830.670 Disapproval of an Application or Recision of Approval (Repealed)

## SUBPART F: HEARINGS AND ADMINISTRATIVE FINES

Section  
830.700 Hearings  
830.710 Administrative Fines

## SUBPART G: SAFE PESTICIDE STORAGE AND HANDLING

Section  
830.800 General Safety Precautions  
830.810 Misuse of Pesticides  
830.820 Records  
830.830 Pesticide Storage Area  
830.840 Service Vehicles  
830.850 Pesticide Storage Practices

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830.860 Orders to Stop Sale, Stop Use, Seize or Regulate Removal  
830.870 Hazardous Incident Notification and Abatement

## SUBPART H: BIRD CONTROL REQUIREMENTS

Section  
830.880 Avicide Permit Requirements (Repealed)  
830.885 Denial or Revocation of Avicide Permits (Repealed)  
830.890 Bird Control Monitoring and Reporting Requirements (Repealed)  
830.900 Bird Control Training Requirements (Repealed)

## SUBPART I: GROUNDWATER PROTECTION

Section  
830.1000 Scope and Applicability  
830.1100 Protection of Potable Water Supplies

ILLUSTRATION A Warning Sign-Pesticide Treatment & Ventilation  
ILLUSTRATION B Restricted Use Pesticide Sign  
TABLE A Schedule of Administrative Fines

AUTHORITY: Implementing and authorized by the Structural Pest Control Act [225 ILCS 235], Illinois Pesticide Act [415 ILCS 60] and in particular Sections 3.2 and 14.6 of the Environmental Protection Act [415 ILCS 5/3.2 and 14.6].

SOURCE: Adopted at 2 Ill. Reg. 19, p. 159, effective May 3, 1978; codified at 8 Ill. Reg. 18492; emergency amendment at 10 Ill. Reg. 17812, effective September 28, 1986, for a maximum of 150 days; emergency amendment expired on February 24, 1987; amended at 11 Ill. Reg. 7736, effective April 15, 1987; amended at 13 Ill. Reg. 2090, effective February 3, 1989; emergency amendments at 14 Ill. Reg. 1036, effective December 22, 1989, for a maximum of 150 days; emergency amendment expired on May 21, 1990; amended at 14 Ill. Reg. 12889, effective August 1, 1990; amended at 16 Ill. Reg. 11612, effective July 6, 1992; amended at 18 Ill. Reg. 14404, effective September 15, 1994; amended at 21 Ill. Reg. 15010, effective November 10, 1997; amended at 23 Ill. Reg. 5620, effective May 1, 1999; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 830.10 Definitions

In addition to the definitions contained in the Structural Pest Control Act [225 ILCS 235], the following definitions, when used herein, shall apply:

"Act" means the Structural Pest Control Act [225 ILCS 235].

"Active ingredient" means any ingredient which will prevent, destroy,

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repel, control or mitigate a pest.

"Applicant" means any person making an application for a license, registration, examination or certification.

"Avicide" means a pesticide used for birds, control, other than a device, which is designed to kill birds when used in a manner consistent with its labeling.

"Back flow preventer or vacuum breaker device" means a device, approved by the Illinois Plumbing Code (77 Ill. Adm. Code 890) used to prevent backflow or backsiphonage of contaminated water or liquid into a water supply system.

"College or university course in related field" means three semester hours or four quarter hours of a college course in biological sciences, physics or chemistry.

"Community Water System" means a public water system which serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days per year. (Section 9(a)(1) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(1)])

"Crack and crevice treatment" means the application of small amounts of a pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, junction or switch boxes, where insects may be present.

"Department" means the Illinois Department of Public Health.

"Existing storage unit" means a storage unit that was in operation or for which there was commencement of construction on or before the effective date of a regulated recharge regulation affecting the storage unit.

"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.

"File a renewal application" means the process of completing the renewal form and submitting it to the Department along with the applicable renewal fee as set forth in Section 9 of the Act and evidence either attached to the renewal form or on file with the Department which would indicate that the license, certification or registration renewal requirements of Sections 4(e) and 6 of the Act and Sections 830.180 and 830.200 of this Part have been met.

"Food area" means an area where food is handled, received, packaged,

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held, processed, prepared, or served.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3(g) of the Illinois Groundwater Protection Act [415 ILCS 55/3(g)])

"Insurance company authorized to transact business" means an insurance company which has been issued a Certificate of Authority by the Director of the Department of Insurance.

"Method" means any action or procedure used to determine the presence or absence of a pest.

"Pest control course" means an educational program which addresses the basic theoretical or practical knowledge of pesticides and their application, approved by the Department pursuant to Subpart D of this Part, and is equivalent to six months experience for original certification.

"Pest control specialist" means a person who has a degree from a recognized college or university in one or more fields related to structural pest control and/or pesticides or has a specialized area of interest pertaining to chemical manufacturing and/or research, chemistry, entomology, or environmental sanitation and engineering.

"Pest control training seminar" means a recertification training program which provides the technical and legal aspects of present structural pest control technology, approved by the Department pursuant to Subpart E of this Part.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3(h) of the Illinois Groundwater Protection Act [415 ILCS 55/3(h)])

"Private Water System" means any supply which provides water for drinking, culinary, and sanitary purposes and serves an owner-occupied single family dwelling. (Section 9(a)(5) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(5)])

"Public Water System" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term "public water system" includes any collection, treatment, storage or distribution facilities under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used



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*primarily in connection with such system.* (Section 9(a)(6) of the Illinois Groundwater Protection Act [415 ILCS 55/9(a)(6)])

"Purchasing group" means a purchaser of group insurance which group has registered with the Director of the Department of Insurance.

"Recognized college or university" means an educational institution which has been recognized or approved by the Board of Higher Education, or equivalent, in the State in which it is located; and/or an educational institution accredited by a regional accrediting association recognized by the Council on Post Secondary Accreditation. In either instance, the college or university must be authorized to confer a degree in the fields of Biological Sciences, Entomology, Zoology, or related fields.

"Regulated Recharge Area" means a compact geographic area, as determined by the Illinois Pollution Control Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3(j) of the Illinois Groundwater Protection Act [415 ILCS 55/3(j)])

"Risk retention group" means an insurance company incorporated and licensed in one of the states of the United States and registered with the Director of the Department of Insurance.

"Secondary containment structure" means any structure used to contain liquid pesticides and prevent runoff or leaching into the groundwater.

"Service container" means any non-food container utilized to temporarily hold, store or transport a pesticide concentrate or registered ready-to-use product other than the original labeled container provided by the manufacturer, the measuring device or the application device.

"Setback zone" means a geographic area established under the Environmental Protection Act [415 ILCS 5] which, for the purposes of Subpart I of this Part, contains a potable water supply well and a storage unit, having a continuous boundary within which certain prohibitions or regulations for groundwater protection are applicable.

"Signal word" means a word or phrase found prominently displayed on the pesticide label which offers an indication of the toxicity and potential danger of a pesticide.

"Storage unit" means an area, structure, or any other mechanism used to store or accumulate pesticides for commercial application purposes.

"To use any registered pesticide in a manner inconsistent with its

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labeling" means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator of the USEPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator of the USEPA has determined that the use of the pesticide against other pests would cause unreasonable adverse effect on the environment;

employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling;

any use of a pesticide in conformance with Section 5, 18, or 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 8-9-8-136(ee)); or

any use of a pesticide in a manner that the Administrator of the USEPA determines to be consistent with the purpose of FIFRA.

"Treatment period" means the period of time necessary for a room or area to remain closed to unauthorized individuals in order to allow an effective treatment and subsequent drying or settling of the pesticide in accordance with label directions or, in their absence, manufacturer's recommendations.

"USEPA" means the United States Environmental Protection Agency.

"Water well" means any excavation, except a monitoring well, that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial re-charge, or acquisition of groundwater.

"Work Site" means and includes any location at which pesticides are handled, mixed, stored, or applied.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 830.20 Referenced Materials

The following State and federal laws and State rules are referenced in this Part:

- a) The following State laws are referenced in this Part:
  - 1) Illinois Pesticide Act [415 ILCS 60] (Sections ~~Section 830.710 and Section 830.860~~) ~~Section 830.800 and Section 830.805~~;
  - 2) Structural Pest Control Act [225 ILCS 235] (Section 830.10);
  - 3) ~~Illinois Endangered Species Protection Act (520 ILCS 10) (Section 830.805)~~;
  - 34) Illinois Groundwater Protection Act [415 ILCS 55] (Sections ~~Section 830.10 and Section 830.1100~~);
  - 45) Environmental Protection Act [415 ILCS 5] (Sections ~~Section 830.10, Section 830.1000 and Section 830.1100~~);
- b) The following State rules are referenced in this Part:
  - 1) Illinois Pesticide Act (8 Ill. Adm. Code 250) promulgated by the Illinois Department of Agriculture (Section 830.860);
  - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) promulgated by the Illinois Department of Public Health (Section 830.700);
  - 3) Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by the Illinois Department of Public Health (Section 830.800);
  - 4) ~~Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010) promulgated by the Illinois Department of Natural Resources (Section 830.800)~~;
  - 45) Existing Activities In A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 615) promulgated by the Illinois Pollution Control Board (Section 830.1000);
  - 56) New Activities In A Setback Zone Or Regulated Recharge Area (35 Ill. Adm. Code 616) promulgated by the Illinois Pollution Control Board (Section 830.1000);
  - 67) Minimal Hazard Certification (35 Ill. Adm. Code 670) promulgated by the Illinois Pollution Control Board (Section 830.1000);
  - 70) Cooperative Groundwater Protection Program (8 Ill. Adm. Code 257) promulgated by the Illinois Department of Agriculture (Section 830.1000).
- c) The following federal laws are referenced in this Part: ~~1) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 136 et seq.) also referred to as the Federal Environmental Pesticide Control Act of 1972 (Sections Section 830.10, Section 830.710 and Section 830.860);~~
  - 2) ~~Migratory Bird Treaty Act (16 USC 703 et seq.) (Section 830.800)~~;
- d) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective

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\_\_\_\_\_)

## SUBPART B: GENERAL REQUIREMENTS

## Section 830.100 License Application for Commercial Structural Pest Control Business Location

- a) Any person who engages in commercial structural pest control at or from any commercial structural pest control business location in Illinois, or from a location outside the State and doing business within Illinois, shall be required to obtain a business license from the Department.
- b) To obtain a business license, an applicant must first meet the certification requirements of the Act and this Part and:
  - 1) Complete the structural pest control business license application (Form IL 482-0156) ~~in duplicate~~;
  - 2) Obtain a certificate of insurance with general liability insurance coverage in accordance with Section 9 of the Act and Sections 830.250 and 830.260 of this Part;
  - 3) Pay the required license fee as specified in Section 9 of the Act and on the application; and
  - 4) Submit the above items to the Department.
- c) The license shall be available to any individual desiring to perform structural pest control services for hire who employs at least one Illinois certified structural pest control technician at the business location to oversee pest control activities which may include the use of general use pesticides (restricted use pesticides if qualified under Section 5B of the Act) as long as the requirements of the Act and this Part are met. All licenses shall be issued to the owner named in the application, and are not transferable or assignable.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective

## Section 830.110 Registration Application for Non-Commercial Structural Pest Control Location

- a) Any person who engages in non-commercial structural pest control using restricted pesticides, at or from any non-commercial structural pest control location, shall be required to obtain a non-commercial structural pest control registration from the Department prior to the application of any restricted pesticide by said person or facility.
- b) To obtain a location registration, an applicant must first meet the restricted use certification requirements of the Act and this Part and:
  - 1) Complete the non-commercial structural pest control business application (Form IL 482-0157) ~~in duplicate~~ (Form IL 482-0159 if facility is state, federal or unit of local government);

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- 2) Pay any applicable registration fee in accordance with Section 9 and 22 of the Act; and
- 3) Submit the forms and applicable fees to the Department.
- c) The registration shall be available to any non-commercial structural pest control location where restricted pesticides will be utilized by Illinois structural pest control technicians employed at the location and certified (in accordance with the Act and this Part) by the Department to use restricted pesticides. All registrations shall be issued to the owner named in the application, and are not transferable or assignable.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 830.120 Application for Examination as a Certified Structural Pest Control Technician

- a) Any person who engages in commercial structural pest control is required to become certified by examination in accordance with Section 5 of the Act and this Section except that individuals who are not certified may work under the supervision of a certified technician who shall be responsible for their pesticide applications.
- b) Any person who engages in non-commercial structural pest control utilizing restricted-use pesticides is required to become certified by examination in accordance with Section 5 of the Act and this Section except that individuals who are not certified may work under the supervision of a certified technician who shall be responsible for their pesticide applications.
- c) Any applicant desiring to become certified to oversee pest control activities including the application of general use pesticides must:
- 1) Meet the certification requirements of Section 5A of the Act;
  - 2) complete the application for certification as a structural pest control technician - general use pesticides only (Form IL 482-0152) in duplicate;
  - 3) Pay the required examination fee as specified in Section 9 of the Act and on the application;
  - 4) Complete the green request-for-reservation-to-take-the-structural pest-control-technician-certification-examination (Form---ib 482-0162)---The-General-standards-category-is-the-only-box-that should-be-marked-on-this-form;
  - 45) Submit the completed forms and fee to the Department so that they are received no later than 15 30 days prior to the examination date.
  - 56) Complete the examination requirements described in Subpart C of this Part.
- d) Any applicant desiring to oversee pest control activities, including the application of general and restricted use pesticides must:
- 1) Meet the requirements of Section 5B of the Act;

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- 2) Complete the application for certification as a structural pest control technician - restricted use pesticides (Form IL 482-0153) in duplicate;
- 3) Pay the required examination fee as specified in Sections 9 and 22 of the Act;
- 4) Complete the green request-for-reservation-to-take-the-structural pest-control-technician-certification-examination (Form---ib 482-0162);
- 45) Submit the completed forms and applicable fee to the Department so that they are received no later than 15 30 days prior to the examination date.
- 56) Complete the examination requirements described in Subpart C of this Part.
- e) Any application for original certification or reexamination which is not acted upon by the applicant within one 117 year after of acceptance by the Department shall be declared null and void.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 830.130 Re-examination Applications

Any applicant who takes and fails to pass the general standards examination and/or any sub-category examination as established under Subpart C, may apply for re-examination in the general standards or any sub-category failed by filing an application for re-examination on forms provided by the Department. The completed application and required fee for re-examination (See Sections 9 and 22 of the Act) must be received by the Department no later than 15 30 days prior to the examination date.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 830.140 Application of Certified Technicians for Examination in Other Sub-categories

Any technician certified in the use of restricted pesticides (or general use pesticides and meeting the requirements of Section 5B of the Act) may apply for examination in any sub-category established in Subpart C for which the certified technician is qualified and has not previously been certified. The application shall be on forms prescribed by the Department and shall be filed with the Department so as to be received no later than 15 30 days prior to the examination date. All applications shall be accompanied by the required fee for examination (see Sections 9 and 22 of the Act).

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 830.710 Administrative Fines

- a) The Department is authorized to assess administrative civil fines against a licensee, registrant or certified technician for violations of the Act or this Part. These fines may be assessed in addition to, or in lieu of, license, registration, or certification suspensions and revocations.
- b) The amount of a fine shall be determined in accordance with the Schedule of Administrative Civil Fines in Section 830.710 and the following criteria:
- 1) A violation, for the purposes of this Section, will be considered to mean a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this or any other state, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with Section 14 of the Act;
  - 2) For purposes of determining a second violation, an initial violation means the first violation of a particular Section of the Act or this Part within the previous three years or since the effective date of this amendment, whichever is less;
  - 3) Each location shall be considered separately with regard to violation determinations under this Part;
  - 4) A Type A violation is any one of the following:
    - A) Failure to observe the general safety precautions of Section 830.800.
    - B) Failure to abide by any stop sale or stop use order issued under Section 830.860.
    - C) Failure to notify the Department of any incident or accident involving pesticides as required in Section 830.870.
    - D) Use of a pesticide in a manner inconsistent with its labeling directions (Section 830.810).
    - E) Performing a pesticide application or inspection in a faulty, careless, or negligent manner (Section 13(d) of the Act).
    - F) Performing structural pest control in violation of the license and registration requirements of Section 4(a) or 4(b) of the Act.
    - G) Performing structural pest control in violation of the certification requirements of Section 4(c) and 5 of the Act and Sections 830.230 and 830.270.
    - H) Performing structural pest control in violation of an order issued by the Director or his authorized representative (Sections 10(f), 13(a) and 14 of the Act).
    - I) Failure to use methods or materials suitable for structural pest control (Section 13(c) of the Act).
    - J) Performing structural pest control utilizing or authorizing the use or sale of pesticides which are in violation of FIFRA or the Illinois Pesticide Act (Section 13(I) of the

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## Act).

- K) Performing pesticide applications--in--violation--of--Sections 830.880 through 830.890;
- 5) A Type B violation is any one of the following:
- A) Failure to cease pest control operations when there is an interruption in insurance coverage (Section 830.260(d)).
  - B) Making or reporting false, misleading or fraudulent information (Section 13(c) of the Act).
  - C) Fraudulent advertisements or solicitations relating to structural pest control (Section 13(f) of the Act).
  - D) Allowing a license, permit, registration or certification to be used by another person (Section 4(f) and 6 of the Act).
  - E) Using the certification of a structural pest control technician in order to secure or maintain a license or registration when that individual is not actively employed at the business location (Section 6 of the Act).
  - F) Aiding or abetting a person to evade any provision of this Act (Section 13(g) of the Act).
  - G) Impersonating any federal, state, county or city official (Section 13(h) of the Act).
  - H) Failure to allow the Department to perform inspections and investigations in accordance with Section 10(g) and (h) of the Act;
- 6) A Type C violation is any one of the following:
- A) Failure to observe the pesticide storage requirements of Section 830.830.
  - B) Failure to observe the service vehicle requirements of Section 830.840.
  - C) Failure to observe the pesticide storage practices of Section 830.850.
  - D) Failure to establish and maintain insurance in accordance with Section 9 of the Act and Sections 830.250 and 830.260 excluding subsection (b)(5)(A) of this Section.
  - E) Failure to establish and maintain records of pesticide applications in accordance with Section 830.820.
  - F) Failure of a licensee or registrant to provide written notification to the Department concerning the loss of their only certified technician and subsequent shutdown in accordance with Section 8 of the Act and Section 830.240(b).
  - G) Failure of a certified technician to provide written notification to the Department in accordance with Section 830.240(a).
  - H) Failure to renew a license or registration in accordance with Section 4(e) of the Act and Section 830.180.
  - I) Failure to renew a structural pest control technician certification in accordance with Section 6 of the Act and Section 830.200.
  - J) Failure to notify the Department of a change in business

- ownership in accordance with Section 830.190.
- K) Failure to perform the notification and license replacement procedures in accordance with Section 4(d) of the Act when there is a change in business location.
- L) Failure to provide information to the Department upon request in accordance with Section 13(e) of the Act.
- M) Failure to display or provide a current license, registration and certification in accordance with Section 830.310.
- N) Failure to observe the groundwater protection requirements in accordance with Subpart I of this Part.
- c) Any penalty not paid within 60 days after notice from the Department shall be submitted to the Attorney General's Office for collection. Failure to pay a penalty shall also be grounds for suspension or revocation of a license, permit, registration and certification.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART H: BIRD CONTROL REQUIREMENTS

Section 830.880 Avicide Permit Requirements (Repealed)

- a) Other than 20725-diazacholastenol, restricted uses of 4-aminopyridine and restricted uses of 3-chloro-p-toluidine-hydrochloride, the use of restricted or general use avicides for the control of any number of pigeons or starlings, or house sparrows in flocks over 500, or any number of other birds is prohibited, unless such avicide is applied by a commercial structural pest control licensee or by a non-commercial structural pest control licensee having an Avicide Permit (Form #482-0722) obtained as described in this Subpart, except for such avicide use for pest bird control by a non-commercial structural pest control licensee engaged in the production, protection, care, storage or transportation of agricultural commodities or already regulated by the Illinois Pesticide Act.
- b) Restricted avicides must be used, or their use supervised on-site, by a person certified in the sub-category of bird control.
- c) To request an Avicide Permit, a person shall apply on a form (Form #482-0722) prepared and supplied by the Illinois Department of Public Health, at least fourteen (14) days before the proposed use of pesticides for the control of pest birds. The Avicide Permit Application Form (Form #482-0722) shall contain the following information:
- i) Applicant information including the applicant or company name, license number, if applicable, address, city, state, zip, code, telephone number, the name of the supervising technician as required in Section 830.880 (g)(2), the technician's certificate number (if applicable), and telephone number.

- 2) Site information including the name of the site, name of the site, name of the contact person located at the site, street address or lot number, city, state, zip code, county, or township, range, section, or directions to the site, fire subdivision lot number, highway number, secondary roads, signs to follow, etc. of the proposed bird control operation. Instead of a description of the location a map of the bird control operation site may be attached to the application.
- 3) Bird survey information including the target bird species and estimated population of each target species. Describe or attach a diagram of the observed feeding, watering, roosting, and loafing sites of the target species. Note if the target bird is within or outside of a structure and if the structure is enclosed or open. List observed non-target bird species that are associated with, or are using, the same feeding, watering, roosting, or loafing areas as the target birds.
- A) Describe what problem the birds are causing that requires control. List the brand name of the avicide, EPA registration number, chemical name and percent as listed under active ingredients on the label. Estimate the amount of the product that will be used in units of measurement as applied. Give the estimated beginning and ending dates of the program as well as the schedule and frequency of application of the avicide.
- B) Explain what non-avicidal methods are being used, if non-avicidal methods are not being used, provide an explanation. Explain how, by whom and on what schedule the carcasses of killed birds will be retrieved from the control site and surrounding area.
- d) A person shall obtain a separate Avicide Permit (Form #482-0722) for each structure for which bird control is needed, except that multiple structures on the same or contiguous pieces of property require only one Avicide Permit.
- e) In compliance with Section 11(b) of the Endangered Species Protection Act (411 Rev. Stat. 1991, ch. 87, par. 34(b)), the Department shall submit a copy of the Avicide Permit application to the Illinois Department of Conservation for a 14-day comment period. The Department shall take the Illinois Department of Conservation comments into consideration when it places time, space, volume, coverage, concentration or other special restrictions on the Avicide Permit to reduce the risk to non-target and Illinois endangered or threatened species as listed in 17 Ill. Adm. Code 1010.
- f) The Department shall assign an expiration date to the Avicide Permit based on the time required to complete the control of pest birds that will not exceed one year from the date of issuance. The applicant may request an earlier expiration date. The permit holder's use of avicides that required a permit or notification shall stop on the current expiration date of the permit unless a new Avicide Permit is



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- issued-by-the-Department.
- g) Upon receipt-of-a-completed-application-the-Department-shall-issue the-Avicide-permit-to-the-applicant-if:
- 1) The-Avicide-Permit-applicant-is-currently-a-licensed-commercial structural--pest--control-business-or-is-a-non-commercial structural--pest--control-location-as-defined-in-Section-3-13-of the-Act-proposing-to-use-avicides-at-such-locations-and?
  - 2) The-Avicide-permit-applicant-employs-at-least:
    - A) One-person-certified-in-the-sub-category-of-Bird-Control-who shall-supervise-at-the-work-site-the-use-of-any-restricted or-non-restricted-or-general-use-avicide;or
    - B) One-person-who-has-successfully-completed-a-Bird-Control training-seminar-as-described-in-Section-830-900-of-this Part-who-shall-supervise-at-the-work-site-only-the-use-of non-restricted-or-general-use-avicides;and
  - 3) The-proposed-bird-control-program-does-not-pose-undue-risks-to health--property--or-non-target-wildlife-such-risks-determined by-the-health-benefits-the-behaviors-of-the-likely-non-target predator--and-its-prey--the-proposed-amount-of-pesticide-the intrinsic-toxicity-of-the-pesticide-the-risk-of-exposure-to-the pesticide--and-other-relevant-health-and-environmental-factors-as each-case-requires.
  - h) The-Department-shall-send-a-copy-of-the-Avicide-Permit-to-the-Illinois Department-of-Conservation-when-it-is-issued-to-the-applicant.
  - i) A-new-permit-must-be-applied-for-if:
    - 1) the--target--flock-moves-to-a-location-other-than-as-described-on the-permit-or-increases-in-number-by-50%--or-more;
    - 2) the-amount-of-avicide-needed-exceeds-the-estimate-on-the-permit by-20%--or-more;or
    - 3) any-other-changes--from-the-original-permit-occur-other-than-a decrease-in-the-number-of-the-target-flock-or-a-decrease-in-the amount-of-avicide-used.

(Source: Repealed at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 830.885 Denial or Revocation of Avicide Permits (Repealed)

- a) The-Department-may-deny-or-revoke-an-Avicide-permit-or-Avicide-permit application:
  - 1) For-failure-to-meet-any-of-the-requirements-for-granting-the permit-as-specified-in-830-880(g)-of-this-Party-or
  - 2) For-failure-to-conduct-the-bird-control-program-in-accordance with-the-information-furnished-on-the-Avicide-permit-application (Form-IB-#482-0722)-as-described-in-Section-830-880-of-this Party-or
  - 3) For-knowingly-providing-false-or-inaccurate-information-on-the Avicide-Permit-application;or

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- 4) For-failure-to-abide-by-any-special-restrictions-placed-on-the Avicide-Permit-under-Section-830-880(f)-of-this-Party-or
- 5) For-failure-to-use-suitable-effective-non-avicular-bird-control measures-such-as-devices-or-procedures-including-but-not limited-to-netting-chemical-or-mechanical-perch-repellents shooting-trapping-or-electrocution;or
- 6) For-failure-to-select-and-use-avicides-according-to-label directions;or
- 7) For-failure-to-ensure-the-effective-collection-of-dead-or-dying birds;or
- 8) For-failure-to-monitor-and-record-target-and-non-target-birds-and animals-killed-as-required-in-Section-830-890-of-this-Party;or
- 9) For-failure-to-submit-a-Target-and-Non-Target-Bird-Census-(Form IB-#482-0723)-as-required-by-Section-830-890-of-this-Party;or
- 10) For-failure-to-abide-by-other-conditions-of-the-Act-or-this Section-that-apply-to-the-structural-pest-control-operations being-conducted;or
- 11) At-the-recommendation-of-the-Interagency-Committee-on-Pesticides acting-under-Section-19-of-the-Illinois-Pesticide-Act-(Ill.-Rev- Stat.-1991, ch-5, par- 819, as-amended);-or
- 12) After-any-illness-or-death-of-any-hawk-or-owl-(Order Palcoinformes-or-Strigiformes)-or-animal-listed-as-endangered-or threatened-in-17-ill.-Adm-Code-1010-as-a-result-of-permitted structural-pest-control-for-pest-birds-as-determined-by-autopsy and--toxicological-analysis--arranged-for-by-the-Department according-to-Section-830-890(c)-or-other-reasonable-evidence.
- b) Before-revoking-an-Avicide-permit-or-denying-a-permit-when-a completed-application-has-been-received-the-Department-shall-notify the-permit-holder-or-applicant-in-writing-and-provide-such-person-with an-opportunity-for-an-administrative-hearing-as-described-in-Section 15-of-the-Act.

(Source: Repealed at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 830.890 Bird Control Monitoring and Reporting Requirements (Repealed)

- a) The-Avicide-Permit-holder-shall-retrieve-identify--accurately estimate--the-number-of--and-dispose-of-according-to-label-directions visible-target-pest-birds-killed-as-a-result-of-the-structural-pest control-activities-of-the-Avicide-permit-holder-unless-the-Department has-directed-the-permit-holder-in-writing-to-hold-them-for-examination by-the-Department.
- b) In-compliance-with-the-Migratory-Bird-Treaty-Act-the-Avicide-permit holder-shall-immediately-notify-the-Department-of-or-turn-over-to-the Department-all-raptors-(Order-Palcoinformes-or-Strigiformes)-that-are found-dead;or-appear-ill-within-20-miles-of-the-control-site-for-the time-that-the-permit-is-in-effect-plus-two-weeks--the-Department



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- shall be notified by the permit holder of all other known deaths of non-target birds and animals during the permit period within a mile of the control site in order to be in compliance with Section 830-876 and 830-890(d) of this Part;
- e) When possible, the Department will determine if a killed raptor--from the area of a bird control operation died as a result of the bird control operation by arranging for autopsy and toxicological analysis by a State or Federal laboratory. The Department shall send these test results to the Avicide Permit holder, the Illinois Department of Conservation, and the U.S. Fish and Wildlife Service;
- d) Prior to the expiration of the Avicide Permit, the Avicide Permit holder shall submit a completed Target and Non-Target Bird Census form (Form IB-482-0733) to the Department that lists the location, species, number, and dates that birds or animals that were collected or found in accordance with subsection (a) and subsection (b) above.

(Source: Repealed at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 830.900 Bird Control Training Requirements (Repealed)

- a) In order to successfully complete a Bird Control Training Seminar, the participant must correctly answer at least 70% of the questions on a test administered by the Department at a Bird Control Training Seminar. The test may be retaken without attending the Bird Control Training Seminar only by previous Bird Control Training Seminar participants by appointment with the Department.
- b) A Bird Control Training Seminar shall meet all the requirements of Sections 830-608 of this Part.
- c) A Bird Control Training Seminar shall meet all the requirements of Section 830-620 and Section 830-650 of this Part.
- d) A Bird Control Training Seminar shall meet all the requirements of Section 830-630 of this Part except that
- i) At a minimum, the Bird Control Training Seminar shall cover the relationship to bird control of the subjects described in Section 830-530(c) of this Part, and
- ii) The Bird Control Training Seminar shall last a minimum of 4 classroom contact hours with an additional one (1) hour set aside for a Department administered test as required in subsection (a) above.
- e) The Sponsor of a Bird Control Seminar shall comply with all the provisions of Section 830-640 of this Part.

(Source: Repealed at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Informal Conference Board
- 2) Code Citation: 86 Ill. Adm. Code 215
- 3) Section Numbers:  
215.100 New Section  
215.105 New Section  
215.110 New Section  
215.115 New Section  
215.120 New Section  
215.125 New Section  
215.130 New Section
- 4) Statutory Authority: 20 ILCS 2505/2505-510

5) A Complete Description of the Subjects and Issues Involved: This rulemaking sets forth detailed standards and procedures for the operation of an Informal Conference Board (ICB) by the Illinois Department of Revenue. The Informal Conference Board is established pursuant to the authority of 20 ILCS 2505/2505-510. The ICB is established for the purpose of reviewing adjustments to tax returns recommended by Department examiners or auditors before the issuance of a Notice of Tax Liability, Notice of Deficiency or Notice of Claim Denial. The rulemaking explains the composition of the Board and explains that a taxpayer may represent him or herself or be represented by a person of his or her choice before the Board. The rulemaking details the procedure for requesting a review by the ICB, and sets forth the detailed standards utilized by the Board in evaluating taxpayer requests. The rulemaking authorizes in-person conferences before the Board or its designees and explains the standards to be used in settlement of proposed assessments.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed rules pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

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Keith Staats  
General Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-7296

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, municipality or not-for-profit corporations with a proposed tax liability to the Illinois Department of Revenue.

B) Reporting, bookkeeping or other procedures required for compliance: None. This rulemaking imposes no compliance requirements. The rulemaking provides a structure for the informal conference review of tax disputes.

C) Types of professional skills necessary for compliance: Knowledge of the Illinois tax laws, Department procedures, and procedures set forth under these rules.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: a proposed rulemaking was recently received by the Department in the form of a petition for rulemaking submitted by a group of taxpayers, their representatives, and trade associations. The current rulemaking is identical to the proposed subject of the petitioned rulemaking, but has been modified in some respects by the Department.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 215  
INFORMAL CONFERENCE BOARD

Section  
215.100 Informal Conference Board  
215.105 Composition of the Informal Conference Board  
215.110 Representation of the Taxpayer Before the Informal Conference Board  
215.115 Procedure for Requesting Review by the Informal Conference Board  
215.120 Review of Requests by the Informal Conference Board  
215.125 Disposition of Proposed Assessments  
215.130 In-Person Conferences

AUTHORITY: Implementing Section 2505-510, and authorized by Section 2505-795, of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-510 and 2505-795].

SOURCE: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 215.100 Informal Conference Board

The Director of Revenue shall establish an Informal Conference Board (ICB) for the purpose of reviewing adjustments to tax returns recommended by Department of Revenue examiners or auditors before the issuance of a notice of tax liability, notice of deficiency or notice of claim denial. The ICB shall have the authority to recommend an appropriate conclusion to a matter involving such proposed liabilities or claim denials. This informal review process affords taxpayers an opportunity to resolve disagreements with the Department after a liability has been proposed, but before commencement of the formal protest and administrative hearing process. It is the goal of the Informal Conference Board to resolve disputes with taxpayers concerning their tax liability at the earliest opportunity possible in the administrative process, and the ICB will liberally exercise its discretion in all areas provided for in this Part with this goal in mind.

## Section 215.105 Composition of the Informal Conference Board

- a) The members of the ICB shall be:
- 1) the General Counsel for the Department,
  - 2) the Chairman of the Board of Appeals, and
  - 3) an employee of the Department, other than the ICB Administrator or a person under the direct supervision of the General Counsel or the Chairman of the Board of Appeals, to be designated by the Director of Revenue.

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- b) The ICB member designated by the Director shall serve for an initial term of one year upon appointment and thereafter shall serve at the pleasure of the Director. Each ICB member may delegate his or her function on the ICB to one or more qualified staff members who may represent the ICB at informal taxpayer conferences, but each ICB member shall remain personally responsible for approving final actions of the ICB.
- c) The ICB Administrator shall be an individual with extensive experience in audit or legal practice and procedures and shall be appointed by the Director of Revenue. The ICB Administrator shall be under the direct supervision of the Director of Revenue and shall serve at the pleasure of the Director.
- d) The ICB shall be a separate and distinct division of the Department of Revenue and shall not be a unit or division of the Audit Division, the Administrative Hearings Division, the Board of Appeals or the Legal Services Office of the Department. No member of the Administrative Hearings Division or Special Assistant Attorney General who acts as a litigator in the Administrator Hearings Division, with the exception of the General Counsel, may participate in the informal conference process.

#### Section 215.110 Representation of the Taxpayer Before the Informal Conference Board

A taxpayer may represent him or herself or be represented by any person of his choice during the informal conference process. A taxpayer's chosen representative before the ICB need not be an attorney. Any Power of Attorney filed by a non-attorney shall be sufficient for participation in the informal review provided by this Part.

#### Section 215.115 Procedure for Requesting Review by the Informal Conference Board

- a) Letter of Proposed Liability. At the conclusion of an audit or examination of the taxpayer's books and records in all cases where the Department asserts a deficiency in the amount of tax due or proposes to deny all or some portion of a refund amount claimed, the Department shall issue a written notice to the taxpayer proposing the tax liability or proposed denial of the claim for refund. Such letter shall hereinafter be referred to as a "Notice of Proposed Liability" or "Notice of Proposed Claim Denial". The Department's proposed liability or claim denial notices shall state the specific grounds for the proposed deficiency or claim denial and inform the taxpayer of his or her right to an informal review or in-person conference. The taxpayer shall have 30 days after the date the Notice of Proposed Liability or Notice of Proposed Claim Denial is issued to file a request with the Informal Conference Board for review of the proposed assessment. The 30-day period for filing a request commences with the

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mailing date of the Notice of Proposed Liability or Notice of Proposed Claim Denial. The date of mailing shall be the date that appears on the face of the notice or the postmark date, if later than the date shown on the notice.

- b) Requirements of a Request for Review. The request to the ICB for review of the proposed assessment or claim denial shall be in writing, or the Department may provide a specific form for filing the request, which shall include the following identifying information:

- 1) The name of the taxpayer or taxpayers,
- 2) the taxpayer's identifying numbers (Social Security number of individuals or IGT number or federal identification number for entities, such as corporations, estates and trusts, or partnerships),
- 3) the current address of the taxpayer or the taxpayer's representative to which correspondence concerning the request should be directed,
- 4) the amount of the proposed assessment or claim denial that is the subject of the request,
- 5) the years at issue to which the request is directed, and
- 6) the identifying numbers that appear on the Notice of Proposed Deficiency, Notice of Proposed Tax Liability or Notice of Proposed Claim Denial.

The request must be dated and signed by the taxpayer or by an authorized representative of the taxpayer.

- c) In-Person Conference Request. A request to the ICB will commence the informal review process that will examine the basis for the Notice of Proposed Deficiency or Notice of Proposed Claim Denial issued by the Department, along with a review of the taxpayer's request and all supporting documentation and authorities. An in-person conference with the ICB members or their representatives must be requested at the time that the request is filed with the ICB.

- d) Grounds for Request. A request to the ICB may raise objections to the proposed assessment and the request may be supplemented at any time prior to final action by the ICB. The request shall state the taxpayer's specific reasons for the disagreement with the proposed assessment or denial of claim for refund and show why the calculation of the tax proposed to be assessed by the Department is incorrect. The request should reference any authorities relied upon by the taxpayer.

- e) Proposals for Disposition. A taxpayer may submit a formal request to settle the tax dispute with the Department as a part of the initial request to the ICB. Procedures for proposals are outlined in Section 215.125.

- f) Offers in Compromise. The ICB will not accept or negotiate offers in compromise. If a taxpayer is only seeking relief from the further obligation to pay an undisputed tax liability based on an inability to pay, the taxpayer should contact the Department's Board of Appeals after a final assessment of the tax.



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**Section 215.120 Review of Requests by the Informal Conference Board**

- a) The informal conference process is the first step in resolving a tax dispute with the Department. It provides an opportunity for the ICB and the taxpayer to review and discuss the issues relating to the proposed assessment or claim denial. The informal conference process is not subject to the requirements of the Illinois Administrative Procedure Act [5 ILCS 100] and the final Action Recommendations made by the ICB are not subject to administrative review.
- b) In order to make its determination with respect to a written request, the ICB may request additional relevant information or authorities regarding the grounds raised in the taxpayer's request for ICB review. Requests for information are limited to information or documents related to issues raised during the audit that are reflected in the reasons for, and/or the computations supporting, the notice of proposed assessment. A request for additional information or authorities may be made either in writing or during the course of an oral conference, if requested by the taxpayer. The taxpayer, or the taxpayer's representative, has a duty to respond to any requests for additional information or authorities within 30 days from the date of the request, unless both the taxpayer or taxpayer's representative and the ICB representative agree to another time period. Failure to respond in a timely and complete manner may result in the request for relief being denied. A written statement by the taxpayer that information requested does not or did not exist, or cannot be assembled or collated in a reasonable amount of time, will be considered a complete response. However, a failure to provide the information requested because it cannot be assembled or collated in a reasonable amount of time may be the basis of an ICB decision to deny the relief requested by the taxpayer.
- c) Documentation or information submitted to the ICB in writing or as part of an informal conference does not become part of any formal record and cannot be forwarded to any other administrative or judicial body for purposes of that body making a determination on the merits of any case. Both the taxpayer and the Department must present all evidence directly to those adjudicative bodies in accordance with the rules of that body if they wish such evidence to be considered.
- d) Requests submitted to the ICB and all accompanying information provided thereafter are part of the pre-assessment administrative process of the Department, and all such information is covered by the confidentiality provisions of the various tax laws.
- e) The ICB is charged with the responsibility of making a determination of whether the amount of the proposed assessment is accurate. After a complete review of the request, accompanying information and any evidence and arguments submitted on behalf of the taxpayer at an in-person conference, if requested, the ICB shall issue an Action Recommendation. The Action Recommendation shall be issued within 90 days after receipt of the taxpayer's request and requires the approval

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of no less than 2 of the 3 members of the ICB. If the ICB issues no Action Recommendation within 90 days after receipt of the request, the request is deemed denied. The 90-day period may be extended by no more than 60 days by mutual agreement of both parties, in writing, prior to the expiration of the original 90-day period.

**Section 215.125 Disposition of Proposed Assessments**

- a) Offers of disposition of a proposed assessment or claim denial may be proposed to the ICB or by the ICB. The ICB shall consider disposing of the matter at controversy in all instances where, having made a reasonable evaluation of such matters, the Department determines that it is not in the best interest of the Department to issue an assessment or claim denial with respect to the issue.
- b) Offers of disposition shall be tendered in writing to the ICB. Disposition offers may be submitted with the initial request to the ICB or at any point during ICB review prior to the issuance of an Action Recommendation. The offer shall include specific proposed net dollar amounts, identification of issues to be conceded by either party, and the supporting rationale for acceptance of the offer. The ICB may also consider a request for penalty waiver as part of the offer. Any offer received may be accepted, rejected or countered by the ICB and the taxpayer shall be notified in writing of the ICB's decision with regard to the offer.
- c) Statements made by a taxpayer in the written offer of disposition will be considered to be made in the course of good faith negotiations and will not be admissible against the taxpayer in any further proceedings with regard to the matter in controversy.
- d) When a tentative agreement has been reached between a taxpayer and the ICB staff, a written agreement setting forth the terms of the proposed disposition shall be prepared. As with all other Action Recommendations issued by the ICB after informal review or in-person conference, the agreement becomes effective upon approval of no less than 2 of the 3 members of the ICB.

**Section 215.130 In-Person Conferences**

- a) Taxpayers may request an in-person conference in their request to the ICB. The ICB may also request an in-person conference. There is no requirement that an in-person conference be held, except as requested by the taxpayer. However, failure of a taxpayer to agree to a requested in-person conference may result in denial of the relief sought because of a lack of sufficient information by the ICB.
- b) The purpose of the in-person conference is to allow the ICB members or representatives and the taxpayer or taxpayer's representative, to explore the issues raised by the proposed assessment, develop the factual basis of the request, and to consider authorities relevant to the determination of the request.

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- c) The ICB shall mail a written notice of the time, date and location of the in-person conference to the taxpayer or taxpayer's representative, at the address provided on the request to the ICB. The address provided in the original request shall be presumed to be the correct address unless the taxpayer or taxpayer's representative notifies the ICB of a change of address in writing.
- d) An in-person conference will be scheduled within 45 days after receipt of the request from the taxpayer whenever possible, and shall be established by mutual agreement of the taxpayer, the taxpayer's representative and the ICB members or staff representatives conducting the conference. Each ICB member or his or her representative shall participate in the in-person conference.
- e) A taxpayer or a taxpayer's representative who does not appear at the scheduled conference shall be deemed to have waived his or her right to an in-person conference unless the taxpayer or taxpayer's representative can show good cause for failing to attend. Good cause shall include, but not be limited to, illness of the taxpayer or his or her representative, and weather conditions or other acts of God that preclude attendance by any party to the conference.
- f) Formal rules of evidence do not apply at an in-person conference.
- g) Upon conclusion of the in-person conference before the 3-member ICB or representatives of the board members, the ICB will issue a final Action Recommendation to the taxpayer and/or the taxpayer's representative and to the Audit Bureau, where the terms of the final action recommendation shall be implemented.

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Proposed Action:  
130.401 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking codifies the long-standing position of the Department, as evidenced in letter rulings, that when a seller receives a reimbursement or rebate from any source, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is fully taxable. This regulation is part of the Department's ongoing effort to update its regulations by including policies expressed in letter rulings. Also corrects an error in the description of the "wash-out" method in subsection (a). That subsection incorrectly referenced the method which a retailer filing on the gross sales basis should use when he decides to file returns on a "gross sales" basis. The regulation now correctly references a switch from the gross sales basis to the "gross receipts" basis.
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.330	Amendment	05/26/00, 24 Ill. Reg. 7617
130.605	Amendment	09/08/00, 24 Ill. Reg. 13617
130.325	Amendment	09/29/00, 24 Ill. Reg. 14393
130.901	Amendment	11/13/00, 24 Ill. Reg. 16573
130.101	Amendment	11/17/00, 24 Ill. Reg. 16986
130.540	Amendment	11/17/00, 24 Ill. Reg. 16986

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Gina Roccaforte  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers
- B) Reporting, bookkeeping or other procedures required for compliance: Minimal
- C) Types of professional skills necessary for compliance: None

## 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 130

## RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section  
130.101  
130.105  
130.110  
130.111  
130.115  
130.120

Character and Rate of Tax  
Responsibility of Trustees, Receivers, Executors or Administrators  
Occasional Sales  
Sale of Used Motor Vehicles by Leasing or Rental Business  
Habitual Sales  
Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section  
130.201  
130.205  
130.210  
130.215  
  
130.220  
130.225

The Test of a Sale at Retail  
Sales for Transfer Incident to Service  
Sales of Tangible Personal Property to Purchasers for Resale  
Further Illustrations of Sales for Use or Consumption Versus Sales for Resale  
Sales to Lessors of Tangible Personal Property  
Drop Shipments

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section  
130.305  
130.310  
130.315  
130.320  
130.321  
130.325  
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130.331  
130.332  
130.335  
130.340  
130.345  
130.350  
  
130.351

Farm Machinery and Equipment  
Food, Drugs, Medicines and Medical Appliances  
Fuel Sold for Use in Vessels on Rivers Bordering Illinois  
Gasohol  
Fuel Used by Air Common Carriers in International Flights  
Graphic Arts Machinery and Equipment Exemption  
Manufacturing Machinery and Equipment  
Manufacturer's Purchase Credit  
Automatic Vending Machines that Dispense Hot Food or Beverages  
Pollution Control Facilities  
Rolling Stock  
Oil Field Exploration, Drilling and Production Equipment  
Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment  
Aggregate Manufacturing

## SUBPART D: GROSS RECEIPTS



DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration

DEPARTMENT OF REVENUE  
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130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section	
130.901	Civil Penalties
130.905	Interest
130.910	Criminal Penalties

SUBPART J: BINDING OPINIONS

Section	
130.1001	When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section	
130.1101	Definition of Federal Area
130.1105	When Deliveries on Federal Areas Are Taxable
130.1110	No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section	
130.1201	General Information
130.1205	Due Date that Falls on Saturday, Sunday or a Holiday

DEPARTMENT OF REVENUE  
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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section  
130.1301 When Lessee of Premises Must File Return for Leased Department  
130.1305 When Lessor of Premises Should File Return for Leased Department  
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section  
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale  
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale  
130.1410 Requirements for Certificates of Resale (Repealed)  
130.1415 Resale Number--When Required and How Obtained  
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section  
130.1501 Claims for Credit--Limitations--Procedure  
130.1505 Disposition of Credit Memoranda by Holders Thereof  
130.1510 Refunds  
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

Section  
130.1601 When Returns are Required After a Business is Discontinued  
130.1605 When Returns Are Not Required After Discontinuation of a Business  
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section  
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section  
130.1801 When Powers of Attorney May be Given  
130.1805 Filing of Power of Attorney With Department  
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENTS

Section  
130.1901 Addition Agents to Plating Baths  
130.1905 Agricultural Producers  
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles  
130.1915 Auctioneers and Agents  
130.1920 Barbers and Beauty Shop Operators  
130.1925 Blacksmiths  
130.1930 Chiropodists, Osteopaths and Chiropractors  
130.1935 Computer Software  
130.1940 Construction Contractors and Real Estate Developers  
130.1945 Co-operative Associations  
130.1950 Dentists  
130.1951 Enterprise Zones  
130.1952 Sales of Building Materials to a High Impact Business  
130.1955 Farm Chemicals  
130.1960 Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts  
130.1965 Florists and Nurserymen  
130.1970 Hatcheries  
130.1971 Sellers of Pets and the Like  
130.1975 Operators of Games of Chance and Their Suppliers  
130.1980 Optometrists and Opticians  
130.1985 Pawnbrokers  
130.1990 Peddlers, Hawkers and Itinerant Vendors  
130.1995 Personalizing Tangible Personal Property  
130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers  
130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons  
130.2006 Sales by Teacher-Sponsored Student Organizations  
130.2007 Exemption Identification Numbers  
130.2008 Sales by Nonprofit Service Enterprises  
130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools  
130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others  
130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals  
130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies  
130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property  
130.2020 Physicians and Surgeons  
130.2025 Picture-Framers  
130.2030 Public Amusement Places  
130.2035 Registered Pharmacists and Druggists  
130.2040 Retailers of Clothing  
130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art

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Shows, Flea Markets and the Like  
 130.2050 Sales and Gifts By Employers to Employees  
 130.2055 Sales by Governmental Bodies  
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products  
 130.2065 Sales of Automobiles for Use in Demonstration (Repealed)  
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products  
 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders  
 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel  
 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions  
 130.2090 Sales to Railroad Companies  
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles  
 130.2100 Sellers of Feeds and Breeding Livestock  
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers  
 130.2110 Sellers of Seeds and Fertilizer  
 130.2115 Sellers of Machinery, Tools and Special Order Items  
 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions  
 130.2125 Trading Stamps and Discount Coupons  
 130.2130 Undertakers and Funeral Directors  
 130.2135 Vending Machines  
 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order  
 130.2145 Vendors of Meals  
 130.2150 Vendors of Memorial Stones and Monuments  
 130.2155 Vendors of Signs  
 130.2156 Vendors of Steam  
 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.  
 130.2165 Veterinarians  
 130.2170 Warehousemen  
 ILLUSTRATION A: Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.



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receipts. However, if the seller collected the Use Tax on such a sale, he should refund such tax to his customer to whom he makes a refund of the selling price. When the seller makes a charge for restocking or reshelving returned merchandise, the receipts retained by the seller to cover the restocking or reshelving fee are not considered taxable gross receipts. When customers return merchandise, sellers should refund all of the sales tax to the customer, even though they will not be refunding all of the purchase price because of the restocking or reshelving policy. Cancellation fees should be handled in the same manner.

- c) Reward Credits
- Reward credits, sometimes referred to as hostess dollars, awarded to a host or hostess for sponsoring a party for friends at which sellers may show and solicit orders for their merchandise, and which are awarded based upon the amount of sales generated at the party, are included in gross receipts subject to tax when applied toward purchases of the seller's merchandise. The value of the reward credit equals the dollar amount credited when the reward credit is applied.
- d) Membership Fees
- Membership fees are not gross receipts from the sale of tangible personal property. Membership fees are gross receipts received in exchange for an intangible. For example, when membership fees "buy" purchasers the right to purchase products at wholesale, but are not applied to the purchase price of tangible personal property, they are not subject to sales tax. However, when membership fees represent the sale of tangible personal property, they are subject to tax. For example, if a country club charges a member \$100 each month as a "minimum charge" for food services at the club, but the member only consumes \$75 worth of food in a particular month, tax is due on \$75.
- e) Accounts Receivable Assigned to a Wholly Owned Subsidiary
- With regard to receipts or other consideration received by a seller from the sale, transfer or assignment of accounts receivable to a wholly owned subsidiary, such receipts are not considered to be gross receipts subject to tax until the purchaser makes payment on such accounts.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF REVENUE  
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SUBPART D: GROSS RECEIPTS

Section 130.401 Meaning of Gross Receipts

"Gross receipts" means all the consideration actually received by the seller, except traded-in tangible personal property. If the seller receives a reimbursement or rebate from any source, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is fully taxable. For example, when an automobile dealer sells an automobile for \$20,000 to a customer and takes a trade-in valued at \$10,000, the automobile dealer's gross receipts from the sale upon which tax must be calculated are \$10,000. It does not matter whether the customer paid the entire \$10,000 or whether the customer paid \$7,000 and the automobile manufacturer paid the remaining \$3,000 under a rebate program. In both situations, the automobile dealer's gross receipts from the sale are \$10,000 and that is the figure upon which the tax calculation must be based.

- a) Filing Returns on Gross Sales Basis
- Deferred payments made by purchasers are not required to be included in gross receipts until actually received by the seller. The preferred method of reporting receipts from sales is to report them when payment is actually received (i.e., gross receipts basis). However, if a seller keeps his books on a gross sales basis, rather than on a gross receipts basis, and desires to file returns on a gross sales basis, he shall notify the Department, in writing, of his intention to change reporting methods. When a seller makes this change, it should use the "wash-out" procedure to reduce reporting problems when receipts on account are received in a month subsequent to the month of sale when a reporting change basis has been made.

EXAMPLE: Assume a seller wishes to make a change effective with the reporting month of August 1990. Under the "wash-out" procedure, it should calculate the unpaid taxable accounts receivable on its books as of the end of the last business day (July 31, 1990) prior to the first of the month (August 1, 1990) change-over from the accrual to the receipts basis. The taxpayer should then consider all taxable receipts on account to be receipts on which the tax has already been paid (on a sales basis prior to the change-over) until such time as those receipts equal the total of the taxable accounts receivable that it had previously calculated on July 31, 1990 (the day prior to the change-over). Once that point is reached, all subsequent receipts, even those from sales prior to the change-over, should be reported as taxable receipts.

- b) Returned Merchandise and Cancellations
- Any seller may deduct from his gross receipts any refunds made by him during the preceding return period to purchasers, on account of tangible personal property returned to the seller, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return made by him, and had paid the tax imposed by the Retailers' Occupation Tax Act with respect to such

DEPARTMENT OF TRANSPORTATION  
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1) Heading of the Part: Airport Land Loan Program

2) Code Citation: 92 Ill. Adm. Code 15

3) Section Numbers: Proposed Action:

- 15.10 New Section
- 15.20 New Section
- 15.30 New Section
- 15.40 New Section
- 15.50 New Section
- 15.60 New Section
- 15.70 New Section
- 15.80 New Section
- 15.90 New Section

4) Statutory Authority: Implementing and authorized by Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b].

5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to establish, pursuant to Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b], the Airport Land Loan Program (this Part). This Part will provide Illinois Airport Sponsors the opportunity to obtain low interest loans to purchase real estate necessary to protect and improve airport facilities. The rule sets out, among other things, eligibility requirements and conditions for obtaining a loan as well as procedures for repayment of the loan and for notification and renegotiations of the loan payment in the event of a default. The Airport Land Loan Program will promote aviation and aviation safety in Illinois.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Airport Sponsors that participate in the program receive the benefit of a low interest loan to purchase land necessary to improve and/or protect airport facilities.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. James V. Bildilli,

DEPARTMENT OF TRANSPORTATION  
NOTICE OF PROPOSED RULES

Chief, Bureau of Airport Engineering  
Illinois Department of Transportation  
Division of Aeronautics  
#1 Langhorne Bond Drive  
Springfield, Illinois 62707-8415  
(217) 785-8514

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses will not be impacted by this Part.

B) Reporting, bookkeeping or other procedures required for compliance:

C) Types of professional skills necessary for compliance:

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not anticipate the necessity of this Part.

The full text of the proposed rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICS

PART 15  
AIRPORT LAND LOAN PROGRAM

- Section  
15.10 Purpose  
15.20 Definitions  
15.30 Airport Eligibility  
15.40 Eligible Property  
15.50 Application Procedure  
15.60 Evaluating and Prioritizing Loan Applications  
15.70 Conditions of Loan  
15.80 Repayment Requirements  
15.90 Default

AUTHORITY: Implementing and authorized by Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b].

SOURCE: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 15.10 Purpose

This Part establishes the requirements and procedures to be followed when the Illinois Department of Transportation, Division of Aeronautics, lends money to public airport owners from the Airport Land Loan Revolving Fund for the purpose of acquiring real estate interests needed to improve publicly owned airports or to protect the public's interest in, and safety at, such airports. [620 ILCS 5/34b(a)]

Section 15.20 Definitions

As used in this Part:

"Act" means the Illinois Aeronautics Act [620 ILCS 5/34b].

"Airport Land Loan Revolving Fund" is a special State fund, created pursuant to Section 8.36 of the State Finance Act [30 ILCS 105/8.36], in the State Treasury from which appropriations for loans to public airport owners may be made by the Department of Transportation pursuant to Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b].

"Airport Layout Plan (ALP)" means a schematic showing the size and location of all runways, taxiways, and other pertinent features of a

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publicly owned airport that may affect the movement of aircraft. An airport layout plan is developed according to the Federal Aviation Administration's (the FAA's) Advisory Circular 150/5300-13, "Airport Design Manual" and must be approved by the Department.

"Department" means the Illinois Department of Transportation.

"Division" means the Illinois Department of Transportation, Division of Aeronautics.

"FAA" means the United States Department of Transportation, Federal Aviation Administration.

"Part" means the regulations contained in this document promulgated to implement the Airport Land Loan Program and located at 92 Ill. Adm. Code 15.

"Property" means the interest in real estate that is to be purchased, in whole or in part, with money borrowed under this Part. This term includes property interests less than fee simple ownership, such as easements.

"Public Airport Owner (the Owner)" means an agency or political subdivision of the State of Illinois that owns and operates a public airport. This term may include, but is not necessarily limited to, counties, municipalities, park districts, airport authorities, universities, and port districts.

Section 15.30 Airport Eligibility

The Department may make a loan to an Owner subject to the following conditions and in compliance with this Part:

- a) the airport must be publicly owned;
- b) the airport must have been in operation as of January 1, 1999 (Section 34b(a)(1) of the Act);
- c) the Owner must have current height restrictive zoning for the public airport (see 620 ILCS 25 and 30);
- d) the airport does not provide scheduled commercial air service in counties greater than 5,000,000 population (Section 34b(a)(2) of the Act);
- e) the Owner does not have another outstanding, unpaid loan under this Part.

Section 15.40 Eligible Property

Only property meeting the following conditions will be eligible for purchase with funds loaned under this Part.

- a) The property must be shown on the ALP.



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- b) The property must not have significant environmental problems or liabilities as determined by the Department. Environmental problems or liabilities are considered significant if the cost of remedying such conditions exceeds 40% of the value of the property. If federal reimbursement is to be sought, the Owner must comply with the National Environmental Policy Act of 1969 (42 USC 4321 - 4347) as well as with all pertinent federal and State regulations and directives related to environmental impacts. Even if no federal reimbursement is anticipated, the Department must be fully advised of environmental conditions, prior to closing, by a formal statement from an environmental professional approved by the Department. The cost of this environmental statement is eligible to be included in the loan amount.

- c) The property to be acquired must be part of a planned airport improvement or real estate acquisition project. The property shall be capable of being used and developed, for airport purposes, in substantial compliance with State and federal laws.

## Section 15.50 Application Procedure

Applications for loans under this Part shall be made in writing on forms that are approved by the Department. Evidence must be provided with the application that the governing body of the applicant has approved the loan request. An example of such evidence would be a certified resolution by the governing body of the Owner. Application forms are available upon request by contacting the Chief of Airport Engineering, Division of Aeronautics, #1 Langhorne Bond Drive, Springfield, Illinois 62707-8415, 217-785-8514, Fax # 217-785-4533; or at [aero@nt.dot.state.il.us](mailto:aero@nt.dot.state.il.us).

## Section 15.60 Evaluating and Prioritizing Loan Applications

- a) Real estate loan applications will be prioritized using the same federal and State criteria used to establish the annual Airport Improvement Program. This criteria includes guidance found in Federal Aviation Administration Order 5100.39A (August 22, 2000). Categories used to evaluate and prioritize the loan applications include but are not limited to the following:
- 1) safety/security;
  - 2) regulatory requirement (lighting, marking, visual guidance systems, etc.);
  - 3) reconstruction/rehabilitation (preservation, repairs, restoration of airside service area);
  - 4) environmental (part 150 noise, EIS);
  - 5) planning;
  - 6) capacity; and
  - 7) FAA design standards.

- b) Application submittal periods are as follows:

- 1) the first working day in January through the last working day in

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- March:
- 2) the first working day in April through the last working day in June;
  - 3) the first working day in July through the last working day in September; and
  - 4) the first working day in October through the last working day in December.

- A) Applications will be held until the end of the period in which they are received and will not be acted on until that period is over. This provision will avoid confusion associated with a first-in-time/first-in-right approval method. All timely submitted loan applications will be evaluated and prioritized solely on the criteria set forth in subsection (a).

- B) The Division will review the application and notify the Owner in writing of the status of the application within 30 calendar days after the end of each period. The notification will inform the Owner of approval or of the need for additional information necessary for loan approval. The Owner will have 30 calendar days after receipt of written notification from the Division to provide additional information. If the Owner fails to satisfy the Division's request for additional information, the application will be held until the next period unless the Owner or airport does not comply with the conditions set forth in Section 15.30.

- c) If appropriated funds are exhausted, then applications made during that period will be held for one year or until monies become available, whichever is sooner. Such applications will be given the same priority as other applications submitted during the period in which monies become available.

## Section 15.70 Conditions of Loan

Loans under this Part may only be issued pursuant to a binding, written agreement that contains the following conditions and requirements.

- a) The annual rate of interest shall be the lesser of either 2 percent below the Prime Rate charged by banks, as published by the Federal Reserve Board, in effect at the time the Department approves the loan, or a rate determined by the Department, after consultation with the Bureau of the Budget, that will not adversely affect the tax-exempt status of interest on the bonds of the State issued in whole or in part to make deposits into the Airport Land Loan Revolving Fund, nor diminish the benefit to the State of the tax-exempt status of the interest on such bonds. In no event shall less than 2 percent be charged. (Section 34b(b)(1) of the Act)
- b) The term of any loan shall not exceed five years, but it may be for less by mutual agreement. (Section 34b(b)(2) of the Act)
- c) The loan shall be secured with the property purchased, in whole or in

## DEPARTMENT OF TRANSPORTATION

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part, with the loan. The property shall be collateral for the loan. The Owner shall assign a first priority interest in the property to the State and shall cooperate with the Department to record the Department's interest in the property. (Section 34b(b)(5) of the Act)

d) No funds may be transferred to an Owner under this Part until the Department's interest in the property is secured as outlined in subsection (c) of this Section.

e) If federal reimbursement will be requested for the real estate interest purchased with a loan granted under this Part, the real estate acquisition process must comply with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended (the Uniform Act) (42 USC 4601 et seq.). All real estate acquisition costs eligible under the Uniform Act may be paid with money lent under this Part; however, the amount of the loan cannot exceed fair market value of the property, as determined by the Department.

f) If any or all of the interest in the property is transferred (see Section 15.80(e)), the Owner and the Department shall retain an aviation easement in the transferred property interest that meets the requirements of the Department. (See 92 Ill. Adm. Code 14 and the FAA Policy and Procedures Memorandum 5190.6, Appendix 3, June 14, 1994.)

## Section 15.80 Repayment Requirements

a) Loan payments shall be scheduled in equal amounts for the periods determined under subsection (d) of this Section. The loan payments shall be calculated so that the loan is completely repaid, with interest, on outstanding balances, by the end of the term determined under Section 15.70(b).

b) The period of loan payments shall be annual, unless by mutual agreement, a period of less than one year is chosen.

c) There will be no penalty for early payment ahead of the payment schedule. In the event of a prepayment, the principal of the loan shall be reduced. The amount of the periodic payments shall remain the same, but the number of those payments, and the period of the loan, shall be reduced unless the Department agrees to reduce the amount of the payments and to allow the period of the loan to remain the same. (Section 34b(b)(4) of the Act)

d) If the Owner receives project grants for the acquisition of the property, such grants shall be applied to the payment of the loan and the principal shall be reduced accordingly. The amount of the periodic payments shall remain the same, but the number of those payments, and the period of the loan, shall be reduced unless the Department agrees to reduce the amount of the payments and to allow the period of the loan to remain the same.

e) No interest in the property can be transferred by the Owner without express, written permission from the Department. If such an interest is transferred, in whole or in part, then the loan must be repaid in

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full from the proceeds of the transfer.

## Section 15.90 Default

a) If the loan payment is not made within 15 days after the scheduled date determined under Section 15.70(c), a penalty of 10% of the payment shall be assessed.

b) If no payment has been received within 30 days after the scheduled payment date, the loan shall be considered in default. (Section 34b(b)(6) of the Act)

c) As soon as a loan is considered in default, the Department shall notify the public airport owner and attempt to enter into a renegotiation of the loan payment amounts and schedule determined under Section 15.70(c). In no case shall the term of the loan be extended beyond the initial term determined under Section 15.70(b), and the interest rate may not be lowered or any interest be forgiven. If a renegotiation of loan payment amounts and schedule is obtained to the Department's satisfaction within 30 days after notification of default, then the new payment schedule shall replace the one determined by Section 15.70(c) and shall be used to measure compliance with the loan for purposes of default.

d) If, after 30 days after notification of default, the Department has not obtained a renegotiation to its satisfaction, the Department shall declare the loan balance due and payable immediately.

e) If the Owner cannot immediately pay the balance of the loan, the Department shall proceed to foreclose. (Section 34b(b)(7) of the Act)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

2) Code Citation: 74 Ill. Adm. Code 900

3) Section Numbers: Adopted Action:  
900.70 Amend

4) Statutory Authority: 30 ILCS 540

5) Effective Date of Amendments: December 18, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: June 23, 2000 24 Ill. Reg. 8438

10) Has JCAR issued a Statement of Objection to the amendments? No

11) Differences between proposal and final version: No changes

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The amendment to Section 900.70(c) reflects the most recent language and dollar threshold for execution of contracts.

16) Information and questions regarding this adopted amendment shall be directed to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield, IL 62706  
(217)782-9669

The full text of the adopted amendments begin on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE  
CHAPTER VIII: CENTRAL MANAGEMENT SERVICES

PART 900  
JOINT RULES OF THE COMPTROLLER AND THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:  
PROMPT PAYMENT

Section	Scope
900.10	Definitions
900.20	Duties of State Agencies
900.30	Statement Indicating That Interest Penalty May Be Available
900.40	Other Interest Provisions
900.50	When a Payment is Late
900.60	Approval by the State
900.70	Submission and Receipt of Bills
900.80	When and How Vendors Must Request Interest
900.90	Calculation of Interest
900.100	No Interest on Interest
900.110	Exclusions
900.120	Special Rules and Procedures Regarding the Application of the Act to the State Employee's Group Insurance Program
900.130	Resolution of Disputes
900.140	

AUTHORITY: Implementing the State Prompt Payment Act to require prompt payments by the State of Illinois for goods or services [30 ILCS 540].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11168, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11498, effective July 11, 1994; amended at 24 Ill. Reg. 8438, effective 1994.

Section 900.70 Approval by the State

- An agency shall review each Vendor's bill and shall either deny the bill in whole or in part, ask for more information necessary to review the bill, or approve the bill in whole or in part, within 30 days after physical receipt of the bill.
- If the Date of Approval of the Vendor's bill is after this 30 day period or the bill is denied after the 30 day period and subsequently approved, late payment interest shall be due if the Date of Payment is not within 90 days (30 days for approval and 60 day for payment) after receipt of the bill.
- If the agency and the Vendor have not formally executed a contract and State law requires a written contract, any bills submitted before the formal execution shall be deemed to be received when the contract is executed. State law allows payments to be made only after the formal executed.



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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contract is executed for Supplies or Services over \$10,000 or Professional and Artistic Services over \$5,000 ~~Goods-and-Services-over~~ \$5,000.

(Source: Amended at 24 Ill. Reg. 1004.9, effective

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Certification Requirements and Standards of Service for Meter Service Providers

2) Code Citation: 83 Ill. Adm. Code 460

Section Numbers:	Adopted Action:
460.10	New Section
460.15	New Section
460.20	New Section
460.30	New Section
460.40	New Section
460.50	New Section
460.60	New Section
460.70	New Section
460.80	New Section
460.100	New Section
460.110	New Section
460.120	New Section
460.130	New Section
460.200	New Section
460.210	New Section
460.220	New Section
460.230	New Section
460.240	New Section
460.250	New Section
460.300	New Section
460.310	New Section
460.320	New Section
460.330	New Section
460.340	New Section
460.350	New Section
460.360	New Section
460.370	New Section
460.380	New Section
460.390	New Section
460.400	New Section
460.410	New Section
460.420	New Section
460.430	New Section
460.440	New Section
460.450	New Section
460.460	New Section
460.470	New Section
460.500	New Section
460.510	New Section
460.520	New Section
460.530	New Section
460.600	New Section

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## 460.610. New Section

- 4) Statutory Authority: Implementing and authorized by Section 16-108(a) of the Public Utilities Act [220 ILCS 5/16-108(a)].
- 5) Effective Date of Rules: December 15, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 12, 2000, at 24 Ill. Reg. 7028
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

Section 460.10: Definition of "Answer time": Delete "entity" and replace with "meter service provider" at the end of the sentence.

Section 460.10: Definition of "Average error": Replace "460.150(d)" with "460.370(d)".

Section 460.10: Add the following definition: "Dun & Bradstreet Composite Credit Appraisal" means a number, one through four, (one being the highest) that reflects Dun & Bradstreet's or its successor's overall assessment of a firm's creditworthiness."

Section 460.10: Definition of "Electric utility": Replace "3-105" with "16-102" in both places in the definition.

Section 460.10: Definition of "Intelligence": Replace "a business" with "an individual or business".

Section 460.10: Add the following definition: "On-site" means at the premises of the customer."

Section 460.10: Delete definition of "Public liability".

Section 460.10: Add the following definition: "Qualifying surety" means a surety or insurer that is authorized by the U.S. Department of Treasury pursuant to 31 USC 9305. A qualifying surety or insurer may not underwrite more than the amount specified by the U.S. Department of Treasury on a

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## single bond."

Section 460.10: Definition of "Service watt-hour meters": Add ", or volt-amperes" after "watts" at the end of the sentence.

Section 460.15(b): Replace "for an electrical service" with "at a metering point".

Section 460.15(c): Replace "an electrical service" with "a metering point".

Section 460.15(d): Replace "an electrical service" with "a metering point".

Section 460.20: Add "However, this part shall apply to an electric cooperative's operations, municipal system's operations and an electric utility's operations when it is providing metering services outside of its service territory."

Section 460.60(a): Add "The surety or insurance company issuing the bond shall, at a minimum, be a qualifying surety or insurer." after "Illinois".

Section 460.100(b)(1): After "one year." add "The foregoing coverages shall be primary and shall not require contribution. The applicant or MSP may provide the coverages through the use of a primary liability policy or through a combination of primary liability and umbrella liability policies. However, the total limits of liability shall not be less than the limits set forth above."

Section 460.100(b)(1)(A): "If the applicant or MSP renews or makes changes in its insurance coverage, such insurance coverage must be continuous and without interruption." after "certification."

Section 460.100(b)(1)(B): Change "A" to "A-".

Section 460.100(b)(2)(B): Add "The surety company issuing the bond shall, at a minimum, be a qualifying surety." after "State of Illinois."

Section 460.110(a): Add "The applicant shall include in its application an exhibit containing occupational background information on the persons or agents who are being used to meet the requirements of this Section."

Section 460.130: Delete subsection (b). Redesignate remaining subsections.

Section 460.230(a): After "annually" add "to the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor".

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Section 460.230(c): Replace "applicant" with "MSP".

Section 460.230(d)(1): after "continue" add ". If the insurance company's rating or financial size is downgraded below the minimum required rating or financial size under Section 460.100(b)(1)(B), within thirty (30) days of such downgrade the MSP shall obtain new insurance coverage provided by an insurance company meeting or exceeding the required minimum rating and financial size. A copy of the certificate of insurance for the new policy must be filed within that period with the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor"

Section 460.230(d)(2): After "[820 ILCS 305]" add "If the MSP fails to maintain authorization from the Illinois Industrial Commission to provide self-insurance, the MSP must obtain insurance coverage as provided in Section 460.100(b)(1) within 120 days from the date that its authority to self-insure is revoked by Illinois Industrial Commission Order. The MSP must notify the Commission of the Order revoking its authority to self-insure within 30 days. Within the 120 days, the MSP must file a certificate of insurance with the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor as evidence that a Commercial General Liability policy has been issued and is valid for a period of not less than one year."

Section 460.230(d)(2)(A): Add

". Within 30 days of a downgrade of the commercial paper or long-term credit ratings of the guarantors or financial institutions that issued the letter of credit to a level below the minimum rating required under this Subpart, the MSP shall submit a report that (1) identifies the subsection under which the MSP is seeking to demonstrate that its financial resources remain sufficient for providing the services for which it has received a certificate of service authority; and (2) includes the information and documents that subsection requires"

After Section 460.230(d)(2)(A): Add

"B) If the surety company that issued the surety or license or permit bond is disqualified as a qualifying surety, the MSP shall have 30 days from the date that the company is disqualified to obtain a new surety or license or permit bond from a qualifying surety"

Redesignate the rest of the subsections.

Section 460.240: Delete "and the term of each contract".

Section 460.250: Replace "during January" with "prior to December 31".

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Section 460.250: Delete "and the term of each contract".

Section 460.400: After the last subsection, add:

"c) Direct current watt-hour meters shall be tested at least once every 12 months."

Section 460.410(b): Delete "Sample lots shall consist of meters of the same basic type and purpose." In its place add

"The MSP shall divide the meter population into homogeneous groups consisting of meters of the same basic type and purpose. A sample shall be taken each year from each homogeneous group."

Section 460.430(d): Add "No entity shall induce a customer to request a meter test on behalf of that entity to avoid paying the actual cost of the meter test."

Section 460.450(b): After "days" add "except upon agreement between the DSP, MSP and energy supplier,".

Section 460.510(f)(2): Replace "2" with "1".

Section 460.530(b)(2): Replace "460.520(b)" with "subsection (a)".

Section 460.600(c): Replace "\$1000" with "\$100,000".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Section 16-108(a) of the Public Utilities Act provides in relevant part:

The Commission shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis. In making any such determination the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois.



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These proposed rules are designed to set standards for the entry into the field of meter services, which is a component of electric delivery services that is not subject to Federal jurisdiction. The proposed rules define the services that are subject to this Part, delineate the application procedure, set the financial, technical, and managerial requirements for certification and for reporting of continued compliance with the certification requirements, establish standards of service, set minimum standards for meter worker qualifications, and institute safety requirements.

16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701  
217/785-3922

The full text of the Adopted Rules begins on the next page:

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TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER C: ELECTRIC UTILITIES

PART 460

CERTIFICATION REQUIREMENTS AND STANDARDS OF SERVICE FOR METER SERVICE PROVIDERS

SUBPART A: GENERAL PROVISIONS

Section	Definitions
460.10	Meter Service Components
460.15	Application
460.20	Requirements for Applicants
460.30	Required Filings and Procedures
460.40	Customer Records and Information
460.50	License or Permit Bond Requirements
460.60	Confidential Documentation
460.70	Penalties for Violations or Non-conformances
460.80	

SUBPART B: REQUIREMENTS FOR CERTIFICATION

Section	Financial Qualifications
460.100	Technical Qualifications
460.110	Managerial Qualifications
460.120	Qualifications of Agents and Contractors
460.130	

SUBPART C: PROCEDURES FOR REPORTING CONTINUING COMPLIANCE WITH CERTIFICATION REQUIREMENTS

Section	General Provisions
460.200	Erroneous or Defective Reports
460.210	Certification of Compliance with Subparts D, E and F
460.220	Financial Reporting Requirements
460.230	Managerial Reporting Requirements
460.240	Technical Reporting Requirements
460.250	

SUBPART D: STANDARDS OF SERVICE

Section	Exemption or Modification
460.300	Complaints
460.310	Customer Call Centers
460.320	Meter Records
460.330	Metering Service Requirements
460.340	

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460.350	Separate Metering
460.360	Testing Facilities and Equipment
460.370	Meter Accuracy Requirements
460.380	Installation Inspections
460.390	Initial Tests
460.400	Accuracy Testing of Meters
460.410	Sample Testing Procedures
460.420	Meter Tests Requested by Customer
460.430	Meter Tests Requested by Entity
460.440	Corrections and Adjustments for Meter Error
460.450	Meter Tampering, Theft of Service, and Illegal Taps
460.460	Meter Reading and Meter Data Management
460.470	Retention of Related Records

## SUBPART E: METER WORKER QUALIFICATIONS

Section	General Qualifications for Meter Workers
460.500	Illinois Class 1 Qualification
460.510	Illinois Class 2 Qualification
460.520	Illinois Class 3 Qualification
460.530	

## SUBPART F: SAFETY REQUIREMENTS

Section	Reports of Accidents
460.600	Site Inspections
460.610	

AUTHORITY: Implementing and authorized by Section 16-108(a) of the Public Utilities Act [220 ILCS 5/16-108(a)].

SOURCE: Adopted at 24 Ill. Reg. 19052, effective

## SUBPART A: GENERAL PROVISIONS

## Section 460.10 Definitions

"Acceptance testing" means the approval of a group of meters based on statistical testing procedures.

"Act" means the Public Utilities Act [220 ILCS 5].

"Advanced metering system" means any metering system that does not require on-site meter reading.

"Alternative retail electric supplier" or "ARES" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

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"Answer time" means a measurement from the point the last digit of the meter service provider's telephone number is dialed or, if a menu-driven system is used, from the point the last menu digit is dialed by the subscriber and the call is answered by the meter service provider.

"Applicant" means a person that files an application with the Illinois Commerce Commission to provide metering service as a meter service provider pursuant to Section 16-108(a) of the Act [220 ILCS 5/16-108(a)].

"Average error" means the difference between 100% and the average percent registration as defined in Section 460.370(d).

"Best's Key Rating Insurance Guide" refers to a report published by A. M. Best or its successor that assigns ratings to insurance companies to provide an overall opinion of an insurance company's ability to meet its obligations to policyholders.

"Billing multiplier" means the number by which a meter register reading is multiplied to obtain actual usage data. The billing multiplier shall include the transformer multiplier and meter multiplier, if applicable.

"Bodily injury" means bodily impairment, sickness, or disease sustained by a person, including death resulting from the bodily impairment, sickness, or disease.

"Business enterprise" means a commercial enterprise or establishment.

"Certificate of insurance" means a document evidencing the fact that an insurance policy has been written and includes a statement of the coverage of the policy in general terms.

"Commission" means the Illinois Commerce Commission.

"Commission referee test" means the accuracy test of any customer's electric meter made in the presence of one or more members of Commission Staff.

"Complaint" means an objection made to a meter service provider, by a customer or other entity, as to its charges, facilities or service, the disposal of which complaint requires investigation or analysis.

"Commercial general liability insurance" means insurance that covers suits against the insured for such damages as injury or death and property damage.

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"Creep" means a continuous apparent accumulation of energy in a meter with voltage applied and the load terminals open circuited.

"Customer" has the same meaning as "retail customer".

"Delivery services" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Delivery services provider" or "DSP" means the electric utility providing delivery services.

"Demand" means the electric consumption at the point of delivery measured over a specified interval of time in order to estimate the instantaneous electric load.

"Dun & Bradstreet Business Information Report" means a credit report on businesses published by Dun & Bradstreet or its successor.

"Dun & Bradstreet Composite Credit Appraisal" means a number, one through four (one being the highest), that reflects Dun & Bradstreet's or its successor's overall assessment of a firm's creditworthiness.

"Electric cooperative" means the same as that term is defined in Section 3.4 of the Electric Supplier Act [220 ILCS 30/3.4].

"Electric utility" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Entity" means each electric utility while providing services within its service area, each electric utility while providing electric power and energy outside its service area, any ARES, and any electric cooperative or municipal system but only when it provides services as an ARES outside its service territory.

"Escrow account" means a bank account held in the name of the depositor (the applicant or meter service provider) and an escrow agent that is returnable to the depositor or paid to a third person on fulfillment of the escrow condition (i.e., liability obligations of the meter service provider).

"Escrow agent" means the State or national bank or trust company having trust authority in the State of Illinois with which the applicant established an escrow account.

"Experian Small Business Intelliscore report" means a credit report on individuals or businesses published by Experian or its successor.

"Instrument transformer" means a transformer used for metering that

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reproduces in its secondary circuit, in a definite and known proportion, the voltage or current of its primary circuit, with the phase relation substantially preserved.

"Intelliscore" means a score range from 0 to 100 that reflects Experian's assessment of the likelihood of an individual or business becoming seriously delinquent on its outstanding obligations, as reported in the Experian Small Business Intelliscore report.

"License bond" means an obligation of a surety to pay the monies that the meter service provider owes the State of Illinois for violations of the duties and obligations imposed on it as a meter service provider.

"Management position" means an employed position whereby an individual is responsible for directing, supervising, or administering the activities of a group of two or more people with fiscal responsibility and authority over that group.

"Meter multiplier" means the number (other than one) by which the meter register reading is multiplied to obtain meter data not adjusted for the effect of instrument transformation on the calculated amount of actual usage.

"Meter service provider" or "MSP" means every provider of metering service certified by the Commission under the provisions of this Part.

"Meter shop" means a facility containing equipment used by a meter service provider for determining the accuracy of meters.

"Metering service" means the performance of functions related to the provision, installation, testing, maintenance, repair and reading of electric meters used for billing of retail customers and maintaining meter usage data as well as the maintenance and management of meter information and meter data with respect to those meters. (See Section 460.15.)

"Municipal system" means any public utility owned and operated by any political subdivision or municipal corporation of the State of Illinois, or owned by such and operated by its lessees or agents.

"On-site" means at the premises of the customer.

"PAYDEX Score" is a number from 1 to 100 that represents Dun & Bradstreet's assessment of a company's payment performance, as reported in the Dun & Bradstreet Business Information Report.

"Permit bond" has the same meaning as "license bond".



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"person" means the same as that term is defined in Section 3-114 of the Act [220 ILCS 5/3-114].

"Point of delivery" means the point at which the entity providing distribution facilities connects its lines or equipment to the lines or facilities owned or rented by the customer, without regard to the location or ownership of transformers, substations or meters, unless otherwise provided for by written contract or tariffs.

"Portable standards" means instruments (e.g., watt-hour meters, volt-meters, and ammeters) that are used outside the meter shop to test customer meters.

"Property damage" means physical injury to or destruction of property, including all resulting loss of use of that property, or loss of use of property that is not physically destroyed, provided such loss of use is caused by the physical injury to or destruction of other property.

"Qualifying surety" means a surety or insurer that is authorized by the U.S. Department of Treasury pursuant to 31 USC 9305. A qualifying surety or insurer may not underwrite more than the amount specified by the U.S. Department of Treasury on a single bond.

"Ratings agency" means Standard & Poor's or its successor, Moody's Investors Service or its successor, Duff & Phelps or its successor, or Fitch IBCA or its successor.

"Reference standards" means instruments (e.g., watt-hour meters, volt-meters, and ammeters) that are used only for verifying the accuracy of working or portable standards, and whose accuracy is traceable back to the national standard maintained by the National Institute of Standards and Technology or its successor.

"Retail customer" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Self-insurance" means providing self-coverage for damages and liabilities instead of through an insurance company.

"Service watt-hour meter" means an electricity meter used for billing retail customers and maintaining meter usage data that measures and registers the integral, with respect to time, of the real power that flows in the circuit to which the meter is connected. This also includes meters that measure demand in watts or volt-amperes.

"Small commercial retail customer" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

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"Standby letter of credit" means an instrument or document issued by a financial institution guaranteeing the payment of the MSP's liability obligations. The standby letter of credit is used to satisfy claims against the MSP only after the MSP fails to fulfill its obligations.

"Surety bond" means an obligation of a surety to pay the monies that the principal (the applicant or MSP) owes another party in the event the principal fails for whatever reason to fulfill its obligations.

"Technical staff" means a staff of trained technical experts in electric metering and related support functions.

"Test amps" means the electrical current used during meter accuracy testing as designated by the manufacturer and displayed on the meter.

"Transformer multiplier" means the product of the current transformer ratio multiplied by the potential transformer ratio when instrument transformers are part of a metering installation.

"Unconditional guarantee" means an undertaking by a guarantor to pay or fulfill the obligation on failure of the principal obligor to fulfill its contractual obligations. An unconditional guarantee shall contain the following provisions:

The guarantee is one of payment and not collection;

The guarantor's obligations under the guarantee are weighed equally with other guarantees;

The obligations from transactions entered into under the original guarantee are the subject of an ongoing guarantee;

The guarantee reinstates if any guaranteed payment made by the primary obligor is recaptured as a result of bankruptcy or insolvency;

The guarantee is binding on successors of the guarantor;

The guarantor has subjected itself to jurisdiction and service of process with the laws of the State of Illinois, and has agreed that the guarantee will be construed in accordance with the laws of the State of Illinois without reference to conflict of laws principles; and

The guaranteed obligations are unconditional, irrespective of value, genuineness, validity, waiver, release, alteration, amendment, and enforceability of the guaranteed obligations.

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"Var-hour meter" means an electricity meter that measures and registers the integral, with respect to time, of the reactive power of the circuit in which it is connected. This includes meters that measure demand in vars.

"Working standards" means instruments (e.g., test benches and demand boards) that are used in meter shops to test the accuracy of customer meters.

**Section 460.15 Meter Service Components**

Metering service consists of the following 16 functions:

- a) Meter reading. On-site visual data retrieval from metering and/or data retrieval from metering on-site or remotely via a form of electronic communication using a computerized device as applicable.
- b) Meter equipment installation. The tasks associated with the physical assembly and placement of metering equipment at a metering point.
- c) Meter equipment exchange. The tasks associated with the physical removal and the installation of metering equipment at a metering point.
- d) Meter equipment removal. The tasks associated with the physical extraction of metering equipment from a metering point.
- e) Maintenance of the meter system components. The remote or on-site testing, calibration, programming, modification, repair and replacement of meter system components.
- f) Meter communications device installation and maintenance. The remote or on-site installation, testing, calibration, programming, modification, repair and replacement of meter communication devices.
- g) Meter equipment provision. The ability of the MSP to supply and install metering equipment.
- h) Initiation or transfer of metering service. The removal, replacement, disabling, modification, or programming of metering equipment, for the purpose of establishing or changing the provider of metering service.
- i) Meter accuracy testing. Tasks associated with verifying the accuracy of measurement of the metering equipment ultimately used for billing, in accordance with applicable standards for required testing contained in this Part.
- j) Meter equipment design and engineering. Analyzing, specifying and documenting customers' metering equipment requirements.
- k) Meter attribute record keeping. Meter attribute record keeping includes, but is not limited to, what is required by Section 460.330.
- l) Accept raw meter data. The act of retrieving raw meter usage data used for billing from either the meter equipment directly, or from the agent or contractor with which the MSP has contracted to perform the retrieval function.
- m) Translate data into format for internal processing. The act of converting raw meter data received into a convenient internal format for storage, archiving, validating, editing, and estimating other

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business processes.  
n) Associate meter reads with customer identifiers for use in validation or estimation. The verified matching of meter data with the corresponding customer records.

o) Validate, edit and estimate translated meter data. The act of checking a customer's translated meter data against documented thresholds for errors and/or omissions using documented estimation procedures to correct and edit meter data that fails the data integrity check.

p) Translate data into common formats and post to server. The act of converting the validated, edited, and estimated data into documented common formats and posting to server accessible to applicable market participants.

**Section 460.20 Application**

This Part sets forth minimum requirements and shall apply to any applicant and MSP in this State. This Part shall not apply to an electric cooperative's operations or to a municipal system's operations within its service territory, nor shall it apply to any electric utility's operation within the utility's service territory. However, this Part shall apply to an electric cooperative's operations, municipal system's operations and an electric utility's operations when it is providing metering services outside of its service territory.

**Section 460.30 Requirements for Applicants**

Each applicant shall include with its application the following items:

- a) The applicant shall certify that it will comply with all applicable Federal, State, regional and industry rules, policies, practices, procedures and tariffs for the use, operation, maintenance, safety, integrity, and reliability of the electric system. The applicant shall certify compliance with all other applicable laws and regulations and Commission rules and orders.
- b) The applicant shall certify that the only retail customers to which it will directly provide metering service are those that are taking delivery services.
- c) The applicant shall certify that it will comply with informational and reporting requirements that the Commission may by rule establish.
- d) The applicant shall provide the following:
  - 1) Applicant's name and street address.
  - 2) Applicant's Federal Employer Identification Number (FEIN).
- e) The applicant shall demonstrate that:
  - 1) The applicant is licensed to do business in the State of Illinois; and
  - 2) The employees of the applicant that will be installing, operating, and maintaining metering facilities within the State of Illinois, or any agent or contractor with which the applicant has contracted to perform those functions within the State of Illinois, has, or will have prior to performing those functions,

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the requisite knowledge, skills, and competence, as set forth in Subpart E, to perform those functions in a safe and responsible manner in order to provide safe and reliable service.

**Section 460.40 Required Filings and Procedures**

- a) The applicant shall publish notice of its application for certification in the Official State Newspaper within 10 days following the filing of the application for certification. The applicant shall file proof of publication with the Chief Clerk of the Commission. No later than 45 days after the application is properly filed with the Commission, and such notice is established, the Commission shall issue its order granting or denying the application.
- b) All applications for certification under this Part shall be verified as required by Section 200.130 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.130).
- c) The applicant shall identify the geographic area or geographic areas in which the applicant seeks authority to offer service. The applicant shall provide the following:
  - 1) Description of the applicant's business;
  - 2) Description of the characteristics of customer groups the applicant proposes to serve; and
  - 3) Proof that notification of an intent to serve in any electric utility's service area has been previously provided to the agent, designated by the electric utility pursuant to 83 Ill. Adm. Code 215.10, of each electric utility in whose service area the applicant intends to serve.
- d) Itemized Filing Requirements
  - 1) At the time the applicant files an application for certification under this Part, the applicant shall also file its statement in support of application, supporting documents, and schedules containing information showing that the applicant meets the requirements of this Part.
  - 2) The applicant shall certify compliance with all terms and conditions required by Sections 8-201 through 8-207, 8-301, 8-302, 8-303, 8-305, 8-505, 8-507, 16-119, 16-122, 16-123, and 16-128(a) of the Act [220 ILCS 5/8-201, 8-202, 8-203, 8-204, 8-205, 8-206, 8-207, 8-301, 8-302, 8-303, 8-305, 8-505, 5-507, 16-119, 16-122, 16-123, and 16-128(a)], to the extent those Sections have application to the services being offered by the MSP.
- e) Contents of documents shall be consistent with Subpart B of the Commission's Rules of Practice (83 Ill. Adm. Code 200: Subpart B).

**Section 460.50 Customer Records and Information**

- a) The applicant shall agree to adopt and follow rules and procedures ensuring that authorizations received from customers, customer billing

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records, and requests for metering service transmitted to utilities are retained for a period of not less than two calendar years after the calendar year in which they were created. In addition to other lawful means of discovery, these records shall be made available by request to the Commission or its Staff on a confidential and proprietary basis, as necessary to carry out the Commission's obligations under the Act.

- b) The applicant shall preserve the confidentiality of its customer's data, and shall agree to adopt and follow rules and procedures to preserve the confidentiality of its customer's data.

- c) In the event that an MSP renders a bill to a retail customer for providing meter services, the bill shall indicate the period of time for which the bill is rendered, a description of the service rendered, the due date of the bill and a toll-free telephone number to contact for further information.

**Section 460.60 License or Permit Bond Requirements**

- a) The applicant shall execute and maintain a license or permit bond issued by a surety or insurance company authorized to transact business in the State of Illinois in favor of the People of the State of Illinois. The surety or insurance company issuing the bond shall, at a minimum, be a qualifying surety or insurer. The amount of the bond shall equal \$150,000. The bond shall be conditioned upon the full and faithful performance of all duties and obligations of the applicant as an MSP and shall be valid for a period of not less than one year. The cost of the bond shall be paid by the applicant. The applicant shall file this bond as part of its application for certification.

- b) In the event that a license or permit bond is cancelled, expires or is drawn upon, the MSP shall execute and maintain an additional or replacement bond such that the cumulative value of all outstanding bonds never falls below the amount required in subsection (a) of this Section. The MSP shall file a copy of the additional or replacement bond with the Chief Clerk of the Commission and provide a copy to the Manager of the Commission's Financial Analysis Division or its successor at least 15 days in advance of the effective date of the bond. The filing shall include a cover letter that explains the purpose of the filing and shall be identified by the name of the MSP as it appears in the most recent Commission order granting the MSP certification.

- c) In the event that a license or permit bond is modified, the MSP shall file a copy of the modified bond with the Chief Clerk of the Commission and provide a copy of that bond to the Manager of the Financial Analysis Division or its successor at least 15 days in advance of the effective date of the modification. The filing shall include a cover letter that explains the purpose of the filing and shall be identified by the name of the MSP as it appears in the most



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recent Commission order granting the MSP certification.

**Section 460.70 Confidential Documentation**

If an applicant or MSP believes any of the information to be disclosed by that applicant or MSP is privileged or confidential, the applicant or MSP shall request that the Commission enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies pursuant to 83 Ill. Adm. Code 200.430. The applicant or MSP shall designate which information is privileged and confidential. Such information shall be marked as "confidential" and submitted separately under seal to the Chief Clerk of the Commission. The applicant or MSP is required to explain why that information is entitled to such protection in a supporting document pursuant to Section 460.40(d)(1).

**Section 460.80 Penalties for Violations or Non-conformances**

In the event that, after notice and hearing held on complaint or on the Commission's own motion, the Commission finds that an MSP is in violation of or non-conformance with one or more of the provisions of this Part, the Commission shall:

- a) Order the MSP to cease and desist, or correct, any such violation of or non-conformance with the provisions of this Part;
- b) Order the MSP to pay financial penalties not to exceed \$10,000 per occurrence or \$30,000 per day for those violations or non-conformances that continue after the Commission issues a cease-and-desist order; and
- c) Alter, modify, revoke or suspend the certificate of service authority of an MSP for substantial or repeated violations of or non-conformances with the provisions of this Part.

**SUBPART B: REQUIREMENTS FOR CERTIFICATION**

**Section 460.100 Financial Qualifications**

An applicant that meets and maintains all of the financial requirements described in this Section will be deemed to have sufficient financial resources to provide metering services to electric customers taking service under a utility's delivery services tariffs in the State of Illinois.

a) Creditworthiness

- 1) The applicant provides a copy of a Dun & Bradstreet Business Information Report that demonstrates, at a minimum, that the applicant has a Composite Credit Appraisal of "3" or lower and a PAYDEX score of "70" or higher. At the time of application for certification, the report shall be no more than 30 days old.
- 2) If the applicant does not have a Dun & Bradstreet Composite Credit Appraisal, the applicant provides a copy of an Experian Small Business Intelliscore report that demonstrates, at a

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minimum, that the applicant has an Intelliscore of "63" or higher. At the time of application for certification, the report shall be no more than 30 days old.

b) Insurance

- 1) The applicant carries commercial general liability insurance, including Bodily Injury and Property Damage coverage. This insurance coverage shall be for a minimum of \$5 million per occurrence with an annual aggregate limit of not less than \$5 million. The policy shall provide insurance against third-party injury, including death, and third-party property damage; including, without limitation, injury to any customer and the employees and agents of the customer and of the DSP, and damage to the property of the customer and the DSP, caused by any act or omission of the MSP or of its employees, contractors, or other agents, in the conduct of the MSP's business. The policy shall recognize claims brought against the MSP by its customers, and the entity supplying electricity to the customer and the DSP. The insurance policy shall be valid for a period of not less than one year. The foregoing coverages shall be primary and shall not require contribution. The applicant or MSP may provide the coverages through the use of a primary liability policy or through a combination of primary liability and umbrella liability policies. However, the total limits of liability shall not be less than the limits set forth in this subsection (b)(1).

A) The applicant shall provide a certificate of insurance to the Chief Clerk of the Commission and the Manager of the Financial Analysis Division or its successor as part of its application for certification. If the applicant or MSP renews or makes changes in its insurance coverage, the insurance coverage must be continuous and without interruption. The certificate of insurance and the insurance policies shall contain a provision that coverage afforded under the policies shall not be cancelled, allowed to expire, or subjected to reduction in the limits in any manner unless at least 30 days prior written notice (10 days notice in the case of nonpayment of premium) has been given to the Commission.

- B) All insurance coverage required by this Section shall be provided by insurance companies having ratings of A- or better and financial sizes of VII or larger in the latest edition of Best's Key Rating Insurance Guide that is in effect as of the issuance date of the certificate of insurance.

- 2) Self-insurance. The applicant may self-insure its liability exposure if it is authorized by the Illinois Industrial Commission to provide self-insurance for its obligations under the Workers' Compensation Act [820 ILCS 305]. As part of its application for certification, the applicant shall provide a copy

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of its Self-Insurance Certificate of Approval under Section 4 of the Workers' Compensation Act or the related rules (50 Ill. Adm. Code 7100.70). If the applicant is required to furnish security, indemnity, bond, or other provision for securing its workers' compensation obligations, then it shall be required to provide an unconditional guarantee, surety bond or standby letter of credit, or establish an escrow account to cover liability obligations that may be caused by any act or omission of the MSP or of its employees, contractors, or other agents, in the conduct of the MSP's business. The unconditional guarantee, surety bond, or standby letter of credit shall be issued in an amount of \$5 million and be valid for a period of not less than one year.

A) Unconditional Guarantee. The guarantor shall be an affiliate of the applicant that maintains at least one of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investor Service or its successor, D-2 or higher from Duff & Phelps or its successor, or F-2 or higher from Fitch IBCA or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investor Service or its successor, BBB- or higher from Duff & Phelps or its successor, or BBB- or higher from Fitch IBCA or its successor. The applicant shall provide a copy of the rating agency reports that present the ratings of the affiliate that is the guarantor, and the unconditional guarantee.

B) Surety Bond. The surety bond or surety bonds shall be issued by a surety authorized to transact business in the State of Illinois. The surety company issuing the bond shall, at a minimum, be a qualifying surety. The applicant shall provide a copy of the surety bonds and the authorization for the surety to transact business in the State of Illinois.

C) Standby Letter of Credit. The standby letter of credit shall be irrevocable and issued by a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, A- or higher from Duff & Phelps or its successor, or A- or higher from Fitch IBCA or its successor. The applicant shall provide a copy of the standby letter of credit and the ratings agency report that presents the long-term obligation rating of the financial institution extending the credit.

D) Escrow Account. Deposits under escrow agreements shall be cash, negotiable United States government bonds, or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or national bank or trust company having

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trust authority in the State of Illinois. Securities used to fund an escrow account shall have at all times a market value at least equal to \$5 million, the minimum amount of commercial general liability insurance required under subsection (b)(1). The applicant shall provide the name and business address of the escrow agent, the authorization giving the escrow agent trust authority in the State of Illinois, and a copy of a statement from the escrow agent detailing the type and amount of funds deposited in the escrow account.

## Section 460.110 Technical Qualifications

- a) An applicant shall be deemed to possess sufficient technical capabilities to serve retail customers if it maintains a technical staff on duty or on call 24 hours each day to operate and maintain the applicant's facilities as needed. This technical staff shall include a person with previous experience of at least two years demonstrated electric metering experience and a person with at least two years operational experience. The persons used to meet the operational experience requirements shall have at least one year of information management experience and one year of technical supervisory experience. The applicant shall include in its application an exhibit containing occupational background information on the persons or agents who are being used to meet the requirements of this Section.
- b) Any person performing actual meter work in the field shall have the appropriate qualifications for the class of metering installation being worked on as set forth in Subpart E.

## Section 460.120 Managerial Qualifications

An applicant shall be deemed to possess sufficient managerial capabilities to serve retail customers if it has one or more management persons with four or more years of experience in a management position with a business enterprise.

- a) The applicant shall include in its application an exhibit containing occupational background information on the persons or agents who are being used to meet the requirements of this Section.
- b) The applicant shall include in its application an exhibit containing a corporate organizational chart and indicate the position of the persons or agents who are being used to meet the requirements of this Section.

## Section 460.130 Qualifications of Agents and Contractors

An applicant may meet the requirements of Sections 460.110 and 460.120 by entering into one or more contracts with others to provide the required services, provided that:

- a) Each agent and contractor on whom the applicant relies to meet Section



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- 460.110 or Section 460.120 is disclosed in the application;
- b) The applicant shall certify that each agent or contractor will comply with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor; and
  - c) The applicant shall certify that it retains responsibility for the compliance of each agent or contractor with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor.

SUBPART C: PROCEDURES FOR REPORTING CONTINUING COMPLIANCE WITH  
CERTIFICATION REQUIREMENTS

**Section 460.200 General Provisions**

- a) All MSPs shall continue to remain in compliance with the provisions of the Act and this Part. If an MSP received a certificate before the effective date of any provision of this Part that applies to applicants seeking certification to serve the same type of customer in the same geographic area, the MSP shall demonstrate that it has come into compliance with the provision no later than January 31 of the year following the year during which the provision took effect.
- b) All reports required under this Subpart shall be under oath and shall be filed with the Chief Clerk of the Commission with copies provided to the Manager of the Energy Division and the Manager of the Financial Analysis Division or their successors. The reports shall be identified with the name of the MSP as it appears in the most recent Commission order granting the MSP certification.
- c) All reports made to the Commission by any MSP shall be open to public inspection, unless otherwise ordered by the Commission. Such reports shall be preserved in the office of the Commission.

**Section 460.210 Erroneous or Defective Reports**

- a) When any report is erroneous or defective or appears to the Commission Staff to be erroneous or defective, the Commission Staff shall notify the MSP to amend the report within 30 days, and before or after the termination of the 30-day period the Commission Staff may examine the officers, agents, or employees, and books, records, accounts, vouchers, plant, equipment and property, of the MSP, and correct items in the report the Commission Staff finds defective or erroneous.
- b) If, after notice and hearing, the Commission finds that the MSP has failed to make and file any report required by the Commission within the time specified, or to make specific answer to any question propounded by the Commission within 30 days from the time it is lawfully required to do so, or within such further time, not to exceed 90 days, as may in its discretion be allowed by the Commission, the Commission shall revoke the certification to provide meter services previously granted to the MSP.

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**Section 460.220 Certification of Compliance with Subparts D, E and F**

Prior to December 31 of each year after its certification, the MSP shall annually certify that it complies with the requirements of Subparts D, E and F of this Part. Contents of documents shall be consistent with Subpart B of the Commission's Rules of Practice (83 Ill. Adm. Code 200: Subpart B). The applicant shall provide the following along with its certification:

- a) The MSP's name and street address; and
- b) The MSP's Federal Employer Identification Number (FEIN).

**Section 460.230 Financial Reporting Requirements**

- a) The MSP shall provide a copy of the documents that this Subpart requires to demonstrate that it has sufficient financial resources to provide metering services to retail electric customers. The documents shall be submitted annually to the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor between December 1 and December 31.
- b) The MSP shall file an updated copy of a Dun & Bradstreet Business Information Report that demonstrates, at a minimum, that the MSP has a Composite Credit Appraisal of "3" or lower and a PAYDEX score of "70" or higher. The report shall be no more than 30 days old at the date of the annual filing.
- c) If the MSP does not have a Dun & Bradstreet Composite Credit Appraisal, the MSP shall file an updated copy of an Experian Small Business Intelliscore report that demonstrates, at a minimum, that the MSP has an Intelliscore of "63" or higher. The report shall be no more than 30 days old at the date of the annual filing.
- d) The MSP shall file evidence of insurance in one of the following ways:
  - 1) File a certificate of insurance as evidence that the commercial general liability policy was renewed for at least one year and the liability coverage will continue. If the insurance company's rating or financial size is downgraded below the minimum required rating or financial size under Section 460.100(b)(1)(B), within 30 days after such downgrade, the MSP shall obtain new insurance coverage provided by an insurance company meeting or exceeding the required minimum rating and financial size. A copy of the certificate of insurance for the new policy must be filed within that period with the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor; or
  - 2) MSPs that qualify to self-insure for the liability obligations shall file a copy of the Self-Insurance Certificate of Approval under Section 4 of the Workers' Compensation Act [820 ILCS 305]. If the MSP fails to maintain authorization from the Illinois Industrial Commission to provide self-insurance, the MSP must obtain insurance coverage as provided in Section 460.100(b)(1) within 120 days from the date that its authority to self-insure



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is revoked by Illinois Industrial Commission Order. The MSP must notify the Commission of the Order revoking its authority to self-insure within 30 days. Within 120 days, the MSP must file a certificate of insurance with the Chief Clerk of the Commission and the Manager of the Commission's Financial Analysis Division or its successor as evidence that a Commercial General Liability policy has been issued and is valid for a period of not less than one year. MSPs that qualify to self-insure but are required to provide an unconditional guarantee, surety bond, letter of credit, or establish an escrow account shall file:

- A) A copy of the latest ratings report presenting the commercial paper or long-term credit or obligation ratings of the guarantors or financial institutions that issued the letter of credit, as applicable, between December 1 and December 31 of each year and within 15 days following any downgrade of such ratings previously filed with the Commission. Within 30 days after a downgrade of the commercial paper or long-term credit ratings of the guarantors or financial institutions that issued the letter of credit to a level below the minimum rating required under this Subpart, the MSP shall submit a report that:
  - i) identifies the subsection of this Part under which the MSP is seeking to demonstrate that its financial resources remain sufficient for providing the services for which it has received a certificate of service authority; and
  - ii) includes the information and documents that subsection requires;
- B) If the surety company that issued the surety or license or permit bond is disqualified as a qualifying surety, the MSP shall have 30 days from the date that the company is disqualified to obtain a new surety or license or permit bond from a qualifying surety;
- C) Copies of any modified, replacement, or additional unconditional guarantees, letters of credit, surety bonds, or escrow accounts, as applicable, at least 15 days in advance of any modification, cancellation, or expiration of the financial agreements; and
- D) A statement presenting the type and balance of securities deposited in the escrow account, as applicable.

**Section 460.240 Managerial Reporting Requirements**

An MSP shall certify prior to December 31 of each year that it continues to maintain the required managerial qualifications for the service authority granted in its certificate. An MSP that meets the managerial qualifications requirements by entering into one or more contracts with others to provide the required services shall identify each agent or contractor on whom the MSP

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relies to meet the requirements, and shall certify that the agent or contractor will comply with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor and that the MSP retains responsibility for the compliance of agents or contractors with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor.

**Section 460.250 Technical Reporting Requirements**

An MSP shall certify prior to December 31 of each year that it continues to maintain the required technical qualifications for the service authority granted in its certificate. An MSP that meets the technical qualifications requirements by entering into one or more contracts with others to provide the required services shall identify each agent or contractor on whom the MSP relies to meet the requirements, and shall certify that the agent or contractor will comply with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor and that the MSP retains responsibility for the compliance of agents or contractors with all Sections of this Part applicable to the function or functions to be performed by the respective agent or contractor.

## SUBPART D: STANDARDS OF SERVICE

**Section 460.300 Exemption or Modification**

Any MSP may file an application requesting modification of or exemption from any provision in this Subpart that applies to the MSP. Upon showing that the modification or exemption is economically and technically sound and will not compromise safety, reliability or the service obligations of the MSP, the Commission may grant the modification or exemption. A petition for exemption or modification shall be filed pursuant to 83 Ill. Adm. Code 200 and shall set forth specific reasons and facts in support of the requested exemption or modification. Any request for modification or exemption shall be served on all ARES and electric utilities in whose service territory the MSP is providing metering service.

**Section 460.310 Complaints**

- a) Each MSP shall investigate each complaint received. The receipt of all written complaints shall be acknowledged in writing or verbally.
- b) Each complaint received by an MSP shall be documented, and any records required by this Part shall be made available to Commission personnel upon request. Each record shall contain, at a minimum, the name and address of the complainant, the time of day and the date received, the nature of the complaint, the result of the investigation and/or analysis, when and by whom conducted, the final disposition of the complaint, and the date of disposition.
- c) Records of complaints related to accuracy of metering equipment or

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data, other than requests for meter rereads, shall be kept in the following manner: each MSP receiving complaints shall keep an index or file containing all these complaints for three years, separated by year. If the MSP chooses to maintain an index of complaints, it shall contain enough information to allow access to individual records of each complaint.

## Section 460.320 Customer Call Centers

a) Each MSP shall maintain a customer call center where customers can reach a representative to discuss meter service issues. At least once every six months, each MSP shall provide written information to customers explaining how to contact the call center. The average answer time for calls placed to the call center shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls. The abandon rate for calls placed to the call center shall not exceed 10%. Each MSP shall maintain records of the call center's telephone answer time performance and abandon call rate. These records shall be kept for a minimum of two years and shall be made available to Commission personnel upon request. In the event that answer times and/or abandon rates exceed the limits established above, the MSP may provide the Commission or its personnel with explanatory details. At a minimum, these records shall contain the following information in monthly increments:

- 1) Total number of calls received;
- 2) Number of calls answered;
- 3) Average answer time;
- 4) Number of abandoned calls; and
- 5) Abandon call rate.

b) MSPs that do not have electronic answering capability that meets the requirements of subsection (a) shall notify the Manager of the Commission's Consumer Services Division or its successor when filing an application for certification and work with Staff to develop individualized reporting requirements as to the call volume and responsiveness of the call center.

c) On or before March 1 of every year, each MSP shall file with the Chief Clerk of the Commission a report for the preceding calendar year on its answer time and abandon call rate for its call center as described in subsection (a). A copy of the report shall be sent to the Manager of the Commission's Consumer Services Division or its successor.

## Section 460.330 Meter Records

a) Each MSP shall keep records that contain the following information about each service watt-hour meter and var-hour meter the MSP owns or has in service in this State:

- 1) manufacturer and date of purchase, along with any testing data

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provided by the manufacturer that is used by the MSP for acceptance testing of the meter;

- 2) manufacturer or MSP identification number;

- 3) nameplate data, including:

- A) form designation or circuit description;
  - B) "watt-hour meter" or other description;
  - C) manufacturer's name or trademark;
  - D) manufacturer's type;
  - E) electrical current class;
  - F) rated voltage;
  - G) number of wires;
  - H) frequency;
  - I) test amperes;
  - J) watt-hour meter constant; and
  - K) watt-hour meter test constant (if applicable);
- 4) date and place of present or most recent installation;
  - 5) date and type of last major repair, or of final disposition; and
  - 6) accuracy of each meter in accordance with the testing policies set forth in this Subpart, including:
    - A) date of test;
    - B) reason for test;
    - C) reading and accuracy of meter as found and as left;
    - D) creep test results, if applicable;
    - E) identification of person performing test; and
    - F) identification of equipment used to test meter.

b) Each MSP shall keep records of tests of the accuracy of each of its service watt-hour meters installed in this State until superseded by a later test, but not less than three years. Each MSP shall keep all other records required by subsection (a) for not less than three years.

c) Each MSP having service watt-hour meters installed in this State shall compile a report of the results of all meter accuracy tests required by this Part at least once each year. This report shall include the number of meters tested and the number of meters that tested outside of accuracy limits for each of the following categories: sample testing, periodic testing, and at customer request. Each MSP shall keep this report for not less than 8 years.

## Section 460.340 Metering Service Requirements

a) Each service watt-hour meter shall have a register or display on the front of the meter that: displays energy consumption in a definite and known proportion to the actual energy consumption of that customer; is plainly visible; and can be read by the customer. This requirement may be waived in writing by the customer. This requirement shall not affect the MSP's right to secure meters for safety reasons or in situations in which the meter is subject to excessive risk of damage or tampering. At the customer's request, a representative for the MSP



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shall explain to the customer how to read the meter used for billing that customer.

- b) If a billing multiplier is used to calculate customer usage, the MSP shall mark the billing multiplier on the front of the meter (or other location on the metering installation where the multiplier is plainly visible) and identify it as a billing multiplier at the time of installation or test, using a permanent marking method.
- c) No meter shall be installed that is known to be mechanically or electrically defective, or that has not been tested in accordance with this Subpart and shown to comply with the accuracy requirements in this Subpart.
- d) Meters shall be installed so as to be accessible to metering personnel for reading, testing, and making adjustments and repairs.
- e) Meters installed by MSPs shall, at a minimum, meet the standards set forth in Section 4.7 of the American National Standards Institute's (ANSI) Code for Electricity Metering (1995 edition, approved June 12, 1995, published by the National Electrical Manufacturers Association, 1300 N. 17th Street, Suite 1847, Rosslyn, Virginia 22209). This incorporation does not include any later amendment or edition.
- f) The MSP may refuse to install a meter or to serve a customer if, in the MSP's judgement, the metering installation is hazardous or of such character that satisfactory service cannot be provided. In case of refusal, the MSP shall inform the customer in writing of the reason for refusal to render service and shall notify within 24 hours by telephone or in person the customer and all entities providing service to that customer.

## Section 460.350 Separate Metering

- a) Except as otherwise provided in subsection (c), a separate meter shall be used to measure the electricity that is consumed within, and controlled by the occupant of, each individual unit contained in any new building, newly remodeled portion of an existing building, or new mobile home park for which a building permit was obtained on or after November 1, 1981, or, if no permit was required, for which construction was commenced on or after November 1, 1981. Separately metered consumption shall be used as the basis for billing the occupant of the individual unit as a separate customer.
- b) Definitions--For purposes of this Section, the following definitions shall apply:
  - 1) "Individual unit" means each portion of a building that is separately leased, rented or owned.
  - 2) "Control" means the ability of the occupant of an individual unit to determine the timing and amount of electricity consumed. Electricity used for central space heating, central water heating, central ventilation or central air conditioning systems is not "controlled" by the occupant of the individual unit.
  - 3) "Remodeled portion of a building" means each area in which

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interior alterations are made that are required by local code or ordinance.

- 4) "Mobile home park" means contiguous parcels of land used for the accommodation of occupied mobile homes.
- 5) "Multiple-unit building" means buildings with more than four individual units.
- c) Exceptions--Separate metering and billing of electricity shall not be required for the following:
  - 1) Units within buildings normally considered to be temporary domiciles, such as motels, dormitories, health care facilities and nursing homes.
  - 2) Residential units that do not have kitchen and bathroom facilities separate from common use facilities.
  - 3) Portions of buildings in which separate metering is impractical, such as concession stands in lobbies, and individual offices that share office service areas.
  - 4) Buildings for which space heating is provided by electric lighting and that qualify for service under special rates.
  - 5) Multiple-unit buildings that are designated as congregate, assisted-living care facilities for elderly or handicapped persons.
- d) Waiver--Any applicant for electric service who is refused metered service by an MSP, and who has exhausted his remedies in the informal complaint process set forth by the Commission (83 Ill. Adm. Code 200.160), may file a formal complaint (83 Ill. Adm. Code 200.170) with the Commission seeking a waiver from the requirements of this Section or the corresponding rules of the MSP. The complaint shall comply with the Commission's Rules of Practice (83 Ill. Adm. Code 200) and shall name the MSP as a Respondent. The complaint shall allege that the long-run benefits of separate metering are outweighed by the associated costs or that separate metering would otherwise be impractical or unreasonable.

## Section 460.360 Testing Facilities and Equipment

- a) Each MSP shall provide a meter shop adequately equipped with reference standards, instruments and other facilities, equipment, and personnel necessary to make the tests required of the MSP by this Part. Each MSP shall provide working standards and portable standards necessary to make the tests required of the MSP by this Part. All apparatus and equipment shall be available at all times during the MSP's established business hours for the inspection of or use by authorized representatives of the Commission. If meters used for billing and maintaining customer usage data are tested at a facility located outside this State, the MSP shall take precautions to insure that the meters are not damaged in transit to or from that testing facility.
- b) Each MSP shall verify the accuracy of all reference standards at least once every twelve months. If the comparison indicates that the



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reference standard is in error by more than 0.5% on any combination on which it will be used, the MSP shall adjust the standard to reduce the inaccuracy, if possible. In any case, the MSP shall apply the correction indicated by the certificate or calibration card accompanying the instrument (pursuant to subsection (d)).

c) When in use for testing meters, all solid state working and portable standards shall be compared to a reference standard at least once every six months. All other working and portable standards used regularly for testing meters shall be compared to a reference standard at least once every month. When working or portable standards are used for purposes other than testing meters, they shall be compared to a reference standard at least once each year. If found in error by more than 0.5%, the MSP shall adjust the instrument to read within the specified limits or shall apply the proper correction factor.

d) Each working, portable or reference standard shall be accompanied at all times by a certificate or calibration card signed or initialed by the person responsible for the calibration giving the date and results of the last calibration of the instrument. The MSP shall keep any superseded certificates or calibration cards on file for at least three years.

e) An authorized representative of the Commission may check or establish the accuracy of all testing equipment owned by each MSP that is used for testing metering equipment used or intended for use in this State, as well as the methods of operating such equipment. An authorized representative of the Commission shall perform an audit of each MSP's testing equipment and methods at least every three years. The MSP shall reimburse the Commission for all expenses related to audits of meter shops used or maintained by the MSP located outside this State.

## Section 460.370 Meter Accuracy Requirements

a) The accuracy of service watt-hour meters shall be determined using the following criteria:

- 1) Light Load test: 10% of test amps at 100% power factor;
- 2) Heavy Load test: 100% of test amps at 100% power factor; and
- 3) Power Factor test: 100% of test amps at 50% lagging power factor.

The power factor test is only required on meter shop tests.

b) Accuracy limits:

- 1) On any test of a service watt-hour meter, the meter shall be left so adjusted that the error shall not be in excess of the following:
  - A) Average error: 1% fast or slow.
  - B) Error at heavy load: 1% fast or slow.
  - C) Error at light load: 1% fast or slow.
  - D) Error at power factor: 2% fast or slow.

2) Meters shall not be deliberately set in error by any amount.

c) Each MSP shall test a service watt-hour meter for creep at the time it makes any accuracy test of that meter if the percent registration at

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light load deviates by greater than 2% from the percent registration at heavy load. No service watt-hour meter found to creep shall be placed in service or allowed to remain in service in that condition.

d) The average percent registration of a watt-hour meter shall be determined by adding the light load registration to four times the heavy load registration and dividing that quantity by five.

e) Demand meters, when tested on the loads specified in this Section, shall be adjusted, if necessary, to meet the following requirements:

1) Demand Meters other than Lagged Demand Meters:

- A) Electrical element--Error shall not exceed that specified for service watt-hour meters in this Section.

B) Timing element--When used to measure time interval only, error shall not exceed 2%. When used also to keep a record of time of day at which the demand occurs, error shall not exceed 0.25%.

2) An MSP shall not install, provide, or maintain lagged demand meters in this State.

## Section 460.380 Installation Inspections

Within 90 days after installation or exchange of any meter with associated instrument transformers and/or phase-shifting transformers, a post-installation inspection shall be made under load to determine if the meter is accurately measuring customer energy consumption.

## Section 460.390 Initial Tests

Initial tests are tests made before installation, regardless of whether the meter and associated devices have previously been in service. Each meter and associated devices (unless included in the sample testing plan in Section 460.410) shall be inspected and tested in the meter shop of the MSP or other location that meets the requirements of this Part before being placed in service, and the accuracy of the meter shall be within the tolerances permitted by this Part. If a meter is removed from a customer's premises, except for field testing, it shall be tested and inspected as described above before it is placed in service again. If creep or inaccuracy is discovered in a meter removed from service, the MSP shall correct the metering data as detailed in Section 460.440.

## Section 460.400 Accuracy Testing of Meters

a) Each service watt-hour meter and var-hour meter shall be inspected and tested according to the schedule in subsection (b). At the time a service watt-hour meter or var-hour meter is tested, any demand meter associated with it shall be inspected or tested. Each demand meter shall be tested at least as often as the meter with which it is associated and, as nearly as practicable, at the same time. If the service watt-hour meter is of the type in which the same element that

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measures watt-hours is used to measure demand, then the watt-hour test and the demand test shall be considered to be one and the same.

- b) Alternating current service watt-hour meters and associated var-hour meters shall be tested according to the following schedule:

- 1) Self-contained single-phase and three-wire network meters:

A) Non-demand:

- i) Sample according to Section 460.410;
- ii) 8 years;

B) Demand:

- i) with pulse-operated electronic demand registers: 4 years;
- ii) with surge-proof magnets or solid state: 8 years.

- 2) Self-contained 480 volt single-phase and poly-phase meters; transformer-rated single-phase meters:

A) Non-demand:

- i) with surge-proof magnets: 8 years;
- ii) without surge-proof magnets: 4 years;

B) Demand:

- i) Mechanical meters with pulse-operated electronic demand registers: 4 years;
- ii) with surge-proof magnets or solid state: 8 years.

- 3) Transformer-rated poly-phase meters: 8 years.
- c) Direct current watt-hour meters shall be tested at least once every 12 months.

#### Section 460.410 Sample Testing Procedures

- a) Any MSP that chooses to use sample testing shall use the procedures prescribed in any of the following documents (alone or in combination) to sample test non-demand, self-contained single-phase or three-wire network meters.

- 1) ANSI/ASQC Z1.4-1993 "Sampling Procedures and Tables for Inspection by Attributes", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee WI 53202. No later amendment or editions are incorporated.

- 2) ANSI/ASQC Z1.9-1993 "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee WI 53202. No later amendment or editions are incorporated.

- b) The MSP shall divide the meter population into homogeneous groups consisting of meters of the same basic type and purpose. A sample shall be taken each year from each homogeneous group.

- c) A minimum acceptable quality level of 2.5% shall be adopted as part of each MSP's sampling plan.

- d) Each MSP shall perform 100% testing on all used or remanufactured meters purchased.

- e) Each MSP using sample testing shall file a yearly report no later than

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March 31 of the following year with the Chief Clerk of the Commission and provide a copy to the Manager of the Energy Division or its successor detailing the sample plan used in the previous year, along with the results of the testing program.

#### Section 460.420 Meter Tests Requested by Customer

- a) Upon customer request, the MSP shall test the customer's meter within 30 days after receiving the request, unless the customer agrees to a later time. The meter test shall be performed between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless some other time is agreed upon by the MSP and the customer. The test shall be performed at the meter installation location and in the customer's presence, unless the customer gives consent for the meter to be removed and/or tested outside the customer's presence.

- b) If the customer's meter has been tested at the request of an entity or customer while in service at the same location within the past six months, the MSP may provide the results of that test in reply to the customer's request in lieu of the test specified in subsection (a).

- c) An MSP shall not require any payment from the customer for a meter test, unless a test has been performed on that meter at that customer's request within the previous twelve months, or information has been provided as in subsection (b) within the past six months. In such cases, the customer shall be required to pay \$40 to the MSP. The MSP shall refund the \$40 deposit to the customer if the MSP finds that the meter over-registers by more than 2%.

- d) Commission referee tests

- 1) Upon written application to the Commission by any customer, the MSP providing metering service shall test the customer's meter within 30 days after receiving notice of the written request from a Commission representative, unless the customer agrees to a later time. The application for a Commission referee test shall be accompanied by a fee of \$20. The MSP shall conduct this test under the supervision of a representative of the Commission.

- 2) On receipt of the request from a customer, a Commission representative shall notify the MSP. After the MSP has received notice that application has been made for a referee test, the MSP shall not disturb the meter in any way, unless the customer or the Commission representative gives written permission for the meter to be removed.

- 3) The MSP shall furnish to the Commission's representative such assistance as may be required to make the test. The Commission's representative shall make a written report of the results of the test to the customer within 30 days after the test.

- 4) If upon test the meter is found to over-register by more than 2%, the MSP shall reimburse the customer the amount paid to the Commission for the test. The MSP shall also make any necessary metering data adjustment.



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- e) No MSP shall be required to perform more than two tests of the same meter installed at the same location at customer request within a twelve month period, unless a Commission referee test is requested. After a Commission referee test, the MSP shall not be required to test the same meter for a period of at least twelve months.

**Section 460.430 Meter Tests Requested by Entity**

- a) Upon request from an entity, the MSP shall test the meter within 30 days after receiving the request, unless the requesting entity agrees to a later time. The meter test shall be performed between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless some other time is agreed upon by the entity and the MSP. The test shall be performed at the meter installation location and in the presence of a representative of the requesting entity, unless the requesting entity gives consent for the meter to be removed and/or tested without the representative's presence.
- b) If the meter has been tested at the request of an entity or customer while in service at the same location within the past six months, the MSP may provide the results of that test in reply to the entity's request in lieu of the test specified in subsection (a).
- c) Meter tests requested by entities may be performed at any time agreeable to the MSP and the entity if the customer's electrical service will not be interrupted by the test. If the customer's electrical service will be interrupted by the test, the MSP or requesting entity shall obtain permission from the affected customer to interrupt the service before the test is performed.
- d) The entity requesting the meter test shall be required to pay the actual cost (not to exceed \$250) of performing the test to the MSP performing the test. The MSP performing the test shall refund the payment to the entity if the meter over-registers by more than 2%. No entity shall induce a customer to request a meter test on behalf of that entity to avoid paying the actual cost of the meter test.
- e) The MSP providing metering service shall not be required to provide more than one test on the same meter at the same location more than once every three years at the request of another entity, unless the other entity requests a Commission referee test.
- f) If an entity requests a Commission referee test, the requesting entity shall pay \$20 to the Commission and the actual cost (not to exceed \$250) of the test to the MSP. If the meter over-registers by more than 2%, the MSP shall refund both fees to the requesting entity and shall make any necessary meter data adjustment. The MSP shall not be required to provide a Commission referee test on the same meter at the same location more than once every twelve months.

**Section 460.440 Corrections and Adjustments for Meter Error**

- a) Regardless of the source of inaccuracy in a customer's meter usage

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- data, the MSP shall correct the data and provide corrected data for all affected billing periods to all entities billing the customer.
- b) Whenever any test made by an MSP or by the Commission shows a meter to have an average error of more than 2%, a correction of the metering data shall be determined by the MSP and that correction shall be conveyed within 3 business days to the customer and to other entities involved in billing the customer.
- c) When a meter is found to have an average error of more than 2%, the MSP shall determine the metering data correction using the actual percentage of error as determined by the test, not the difference between the allowable error and the error found as a result of a test. If the meter is found to run faster than allowable, the MSP shall determine the correction to the metering data for that meter. In determining the correction it shall be presumed, unless demonstrated otherwise, that the inaccuracy has existed for a period of two years. This period of presumed inaccuracy shall not exceed the time for which records of the current customer's usage exist.
- e) If the meter is found to be slower than allowable, the MSP shall determine the correction to the metering data for that meter. In determining the correction, it shall be presumed, unless demonstrated otherwise, that the inaccuracy has existed for a period of 1 year prior to the test for small commercial and residential customers and 2 years prior to the test for all other customers.
- f) In the case of a non-registering meter that has been read during the period of non-registration, the MSP shall not determine a correction to metering data for estimated consumption extending over more than twice the regular interval between readings.
- g) No corrections to metering data for meter error shall extend beyond the in-service date of the meter discovered to be in error, nor shall any correction be required to extend beyond the date upon which the current customer first occupied the premises at which the error is discovered.
- h) Whenever an MSP or the Commission's representative finds that a service watt-hour meter, while in service, exhibits creep, the MSP shall make an estimate of the registration caused by the creep during the period as specified under subsection (d) and shall make a corresponding correction in the metering data.
- i) Any correction to metering data made by the MSP and all records relating to the adjustment of the customer's billing or charges shall be retained for at least two years.
- j) Provisions of this Subpart do not apply to situations in which the customer's wires, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering.

**Section 460.450 Meter Tampering, Theft of Service, and Illegal Taps**

- a) MSP workers shall visually inspect meter sites for conditions associated with meter tampering, theft of service or an illegal tap.



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When a condition associated with theft of service is observed, the MSP shall immediately notify the DSP, the energy supplier and any other entities providing service to the customer of any evidence of meter tampering, energy theft or meter security compromise on a customer's premises, and in no event later than one business day after discovery of the evidence. The following information shall be conveyed to the DSP when theft of service is discovered by the MSP:

- 1) description of evidence;
  - 2) action taken by MSP;
  - 3) contact information at customer's facility; and
  - 4) meter and account information.
- b) The MSP shall cooperate with entities providing electric service to the customer to determine and implement the appropriate corrective action. If a theft-of-service condition is not remedied within 10 business days, except upon agreement between the DSP, MSP and energy supplier, the DSP shall have the right to immediately remove and replace the meter or affected metering equipment, with standard DSP metering equipment. The meter shall be held as evidence in a theft-of-service investigation.
- c) If an MSP alleges that tampering or theft of service has occurred, the MSP shall have the burden of proving, by a preponderance of the evidence, that the customer's meter has been tampered with, that the customer has benefited from the tampering and that the rebilling is reasonable.

**Section 460.460 Meter Reading and Meter Data Management**

- a) MSPs shall read all meters serving retail customers in compliance with the DSP's tariff requirements.
- b) When a customer or entity requests verification of a meter read and the MSP cannot satisfy the customer or entity with an automatic meter read, the MSP shall perform an on-site meter read within 5 business days.
- c) Within 5 business days after installation of a remotely read meter, the MSP shall check that the meter and the meter reading system are working properly. If there is no load available to test the meter at the time of installation, the MSP shall check that the meter and the meter reading system are working properly within 5 business days after load becomes available.
- d) The MSP shall provide meter usage data to market participants serving the customer using the applicable standard electronic transaction protocol or manual process.
- e) The MSP shall keep the most recent 36 months of meter usage data for each customer. The MSP shall retain both raw and translated meter usage data. Meter usage data for the most recent 12 months shall be available upon request to authorized persons within 3 business days. Meter usage data that is more than 12 months old but less than 37 months old shall be available upon request to authorized persons

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within 10 business days.

**Section 460.470 Retention of Related Records**

- a) This Section applies to all books of account and other records prepared by or on behalf of the MSP.
- b) This Section shall not be construed as excusing compliance with any other lawful requirements for the preservation of records for periods longer than those prescribed in this Section.
- c) Each MSP subject to this Part shall designate one or more persons with official responsibility to supervise the MSP's program for the preservation and the authorized destruction of its records.
- d) All records that are required by this Section to be preserved shall be so arranged, filed and currently indexed by the MSP that they may be identified and made available upon request to representatives of the Commission.
- e) The destruction of the records permitted to be destroyed under the provisions of this Section may be performed in any manner elected by the MSP concerned. The MSP shall destroy the legibility of records that contain confidential customer information before or during disposal to prevent unauthorized persons from obtaining such information.
- f) When any records are destroyed before the expiration of the prescribed retention period, the MSP shall file a verified statement within 90 days after the date of discovery of such destruction with the Chief Clerk of the Commission describing the records destroyed and the circumstances of the accidental or other premature destruction. Discovery of loss of records shall be treated in the same manner as in the case of premature destruction.
- g) Each MSP shall retain all meter usage data collected from each meter for at least three years.
- h) Each MSP shall keep all service requests from customers for at least one year.
- i) Each MSP shall keep all connection and disconnection orders from DSPs for at least one year.
- j) Each MSP shall keep a copy of any contract with each customer for at least one year after service is discontinued with that customer.
- k) Each MSP shall keep a record of each customer's bill as issued for at least one year.
- l) Each MSP shall keep a record of all adjustments to meter usage data and customer bills for at least three years, with an explanation for the adjustment.
- m) Each MSP shall keep a record of all high-bill complaints, whether or not such complaint results in an adjustment to the customer's account, for at least one year.
- n) Each MSP shall keep a record of all training for each employee used to satisfy the technical requirements of this Part until at least one year after that employee is no longer employed by the MSP.

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## SUBPART E: METER WORKER QUALIFICATIONS

**Section 460.500 General Qualifications for Meter Workers**

- a) Three levels or "classes" of meter worker qualifications are established in this Subpart for MSP meter workers.
- b) Meter workers performing services on behalf of an MSP shall be trained and shall exercise due care in performing these functions.
- c) An MSP employee who performs service metering work shall have company-issued photo identification indicating the worker's employer and the class of meter work the worker is qualified to perform. This identification shall be carried by the employee whenever performing meter work.
- d) An MSP employee shall be able to identify theft-of-service conditions and take appropriate action.

**Section 460.510 Illinois Class 1 Qualification**

- a) Metering Types and Voltages. Workers with an MSP Class 1 Qualification are permitted to perform work on single-phase, socket-based meters, operating at a maximum of 120/240 volts or 120/208 volts. This level of qualification does not include transformer-rated meters. Also, connections of meter communications devices shall be outside of energized meter panels.
- b) Work to be Performed. MSP Class 1 meter workers may install, remove and replace single-phase, 120/240 volt or 120/208 volt self-contained meters in standard socket-based metering installations. Connections for communication conductors shall be outside the energized meter panels. MSP Class 1 meter workers may be required to install jumpers on single-phase services where bypass provisions are provided or operate a manual bypass switch to maintain service continuity where applicable.
- c) Safety Skills
  - 1) Knowledge of basic electrical theory and associated hazards and ability to perform work while avoiding hazards; and
  - 2) Knowledge of and ability to perform work in compliance with procedures and safety rules applicable to class of work performed, including:
    - A) Basic safety (e.g., driving hazards and animal bite prevention);
    - B) Electrical safety;
    - C) OSHA requirements;
    - D) State requirements;
    - E) Personal protective equipment;
    - F) Distribution safety procedures.
- d) Essential Technical Skills
  - 1) Knowledge of basic AC/DC electrical theory;
  - 2) Knowledge of single-phase electrical metering;

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- 3) Knowledge of electric distribution in general;
  - 4) Knowledge of the meter panel and socket layout for the metering conditions of this class of meter work;
  - 5) Ability to identify energy diversion or tampering related to this class of meter work;
  - 6) Ability to install and remove damaged and undamaged meters;
  - 7) Ability to read meters used in this class;
  - 8) Ability to use tools appropriate to this class of work;
  - 9) Ability to connect meter communications external to the meter panel;
  - 10) Customer contact skills;
  - 11) Ability to distinguish between single-phase and poly-phase services;
  - 12) Knowledge of DSP construction standards and local inspection authority requirements; and
  - 13) Ability to safely jumper single-phase meter sockets to maintain service continuity.
- e) Determination of Essential Technical and Safety Skills
- 1) MSPs shall develop and implement a program to train workers to perform Class 1 meter work safely and properly;
  - 2) A minimum of 500 hours on the job training with a Class 1 meter worker (with at least 1 year of experience as a Class 1 meter worker) or with a meter worker with a higher classification and successful completion of the MSP classroom training program.
- f) Meter Worker Certification and Re-certification Requirements
- 1) Employees are certified by the certified MSP, based on successful completion of the training program referenced in subsection (e), demonstrated ability to perform Class 1 meter worker safety skills and essential technical skills, and prior experience;
  - 2) A Class 1 meter worker who has not performed metering work equivalent to that described in subsection (b) for six months or more shall be re-certified prior to performing Class 1 meter work.

**Section 460.520 Illinois Class 2 Qualification**

- a) Metering types and voltages. Workers with an MSP Class 2 Qualification are permitted to perform work on all Class 1 meter types, as well as:
  - 1) All self-contained and instrument rated meters less than 600 volts;
  - 2) Accuracy testing of all self-contained meters (field);
  - 3) A-Base meters less than 600 volts;
  - 4) K-Base meters;
  - 5) Communication hook up; and
  - 6) Meters with communication wiring routed inside the panel (work can be in and around energized circuits).
- b) Work to be performed
  - 1) A Class 2 meter worker may work in and around energized circuits,

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as permitted by the procedures and safety rules of the certificated MSP;

- 2) In addition to performing the work of a Class 1 meter worker, a Class 2 meter worker may install, remove and replace poly-phase, under 600 volts, self-contained meters in safety socket and standard socket-based metering equipment. A Class 2 worker may operate test-bypass facilities in self-contained safety sockets and install communication wiring inside the panel. A Class 2 worker may be required to install jumpers on services where bypass provisions are provided or operate a manual bypass switch to maintain service continuity where applicable. On panels without bypass provisions or test-bypass facilities, a Class 2 worker may not remove or install poly-phase meters without first disconnecting the customer load;
- 3) A Class 2 meter worker may install, remove and replace all meters consistent with subsection (b), including transformer-rated meters less than 600 volts; and
- 4) A Class 2 meter worker may operate test switches, but may not install, alter, maintain or replace wiring between the meter, test switch, test block and associated equipment.

## c) Safety Skills

- 1) All of the safety skills required for Class 1 meter workers;
- 2) Electrical safety knowledge and work skills appropriate for three-phase metering up to 600 volt phase-to-phase, including the ability to identify and refer to a Class 3 meter installer services above 600 volt phase-to-phase prior to performing work in the service equipment, or if voltage rating is not labeled, at the time of initial voltage check;
- 3) Ability to operate test-bypass facilities or test blocks in a self-contained safety socket; and
- 4) Ability to install jumpers on services where bypass provisions are provided or operate a manual bypass switch to maintain service continuity where applicable.

## d) Essential Technical Skills

- 1) All of the essential technical skills required for Class 1 meter workers;
- 2) Knowledge needed for up to 600 volt poly-phase service and the forms and voltages applicable to Class 2 meter work;
- 3) Ability to route communication wiring to accommodate meter communications;
- 4) Ability to understand, interpret, identify and take appropriate actions based upon built-in diagnostics of solid state meters;
- 5) Ability to perform phase rotation assessments;
- 6) Ability to work with transformer-rated meters and operate test switches and test blocks;
- 7) Ability to install jumpers on services where bypass provisions are provided or operate a manual bypass switch to maintain service continuity where applicable; and

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- 8) Ability to test self-contained meters in locations other than in the meter socket using semi-automatic meter test equipment (field test).

## e) Determination of Essential Technical and Safety Skills

- 1) MSPs develop and implement a program to train workers to perform Class 2 meter work safely and properly;
- 2) Minimum of one year experience as a Class 1 meter worker, 4000 hours on the job training with a Class 2 meter worker (with at least 1 year of experience as a Class 2 meter worker) or a meter worker with a higher classification, and successful completion of the MSP classroom training program.

## f) Meter Worker Certification and Re-certification Requirements

- 1) Employees are certified by the certificated MSP, based on successful completion of the training program referenced in subsection (e), demonstrated ability to perform Class 2 safety skills and essential technical skills, and prior experience.
- 2) A Class 2 meter worker who has not performed metering work equivalent to that described in subsection (b) for six months or more shall be re-certified prior to performing Class 2 meter work.

## Section 460.530 Illinois Class 3 Qualification

- a) Metering Types of Voltages. Workers with an MSP Class 3 Qualification are permitted to perform work on all meter types applicable to Classes 1 and 2 meter workers. Class 3 work also includes:

- 1) Metering up to 600 volts, with transformer-rated meters and with primary and secondary voltages less than 600 volts;
- 2) Metering systems with instrument transformer primary side voltages over 600 volts;
- 3) Metering systems with communication wiring behind the panel (work can be in and around energized circuits);
- 4) Switchboard (panel mounted) meters;
- 5) All accuracy testing (field);
- 6) All programming; and
- 7) Circuit analysis.

## b) Work to be Performed

- 1) A Class 3 meter worker may work in and around energized circuits, as permitted by the procedures and safety rules of the certificated MSP;
- 2) In addition to performing Class 1 and 2 meter work, a Class 3 meter worker may install, remove and replace meters consistent with the description provided in subsection (a);
- 3) A Class 3 meter worker may operate test switches and test blocks, perform in-field meter accuracy tests and calibrations, and perform all types of meter maintenance and troubleshooting; and
- 4) A Class 3 meter worker may program and verify internal programs and software in solid state meters.



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## c) Safety Skills

- 1) All of the safety skills required for Class 1 and Class 2 meter workers; and
- 2) Ability to conform processes to additional electricity hazards, unique customer environments, and complexities associated with metering switchboards, testing meters and maintaining meters.

## d) Essential Technical Skills

- 1) All of the essential technical skills required for Class 1 and Class 2 meter workers;
- 2) Ability to perform work on metering switchboards;
- 3) Knowledge of the operating characteristics of metering transformers and the ability to operate test switches and test blocks;
- 4) Ability to perform calibration, repair, retrofit, troubleshooting, and data collection from electric meters; and
- 5) Ability to install, maintain and program advanced metering technologies, including time-of-use meters, interval meters, real time pricing, remote meter communication, and load control devices.

## e) Determination of Essential Technical and Safety Skills

- 1) MSPs develop and implement a program to train workers to perform Class 3 meter work safely and properly; and
- 2) Minimum of one year experience as a Class 2 meter worker, 2000 hours of on the job training with a Class 3 meter worker (with at least 1 year of experience as a Class 3 meter worker), and successful completion of the MSP classroom training program.

## f) Meter Worker Certification and Re-certification Requirements

- 1) Employees are certified by the certificated MSP, based on successful completion of the training program referenced in subsection (e), demonstrated ability to perform Class 3 safety skills and essential technical skills, and prior experience;
- 2) A Class 3 meter worker who has not performed metering work equivalent to that described in subsection (b) for six months or more shall be re-certified prior to performing Class 3 meter work.

- g) Continuing Education. A Class 3 meter worker shall participate annually in at least 12 hours of continuing education. The content of this training shall be determined by the certificated MSP and shall address standards of practice and related safety issues.

## SUBPART F: SAFETY REQUIREMENTS

## Section 460.600 Reports of Accidents

- a) Except as otherwise specified in this Section, each MSP will report every accident occurring on property owned by the MSP or resulting from the construction, installation, operation and maintenance of its property within this State. Each report will include, at a minimum,

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the date, time and place of the accident, description of accident, number of persons killed or injured and name of each person reported. Whenever any such accident occasions the loss of life or limb to a person, the MSP will notify the Manager of the Commission's Energy Division or its successor as quickly as possible, but not to exceed 4 hours after the discovery of the accident.

- c) An accident that causes death or personal injury to any persons or that causes over \$100,000 damage to the property of the MSP should be reported. Any traffic accident that causes death to any persons on public thoroughfares involving an MSP operated motor vehicle should be reported.
- d) In reporting damages to property, the MSP may state the amount in the nearest even dollars. The MSP shall provide an estimate if the actual amount is not known. The MSP need not include sums paid or payable for death or personal injury.
- e) Accidents to persons resulting in death due to injuries sustained from the accident shall be reported as "killed". All other accidents to persons shall be reported as "injured."
- f) Accidents to employees shall be reported if the injury prevents the employee from performing normal duties for more than three aggregate days. Accidents to non-employees shall be reported if the injured is not able to resume normal activities within one day.
- g) If no accidents occur within a year, the MSP shall file a verified statement with the Chief Clerk of the Commission before February 1 of the following year indicating that no accidents occurred during the previous year.

## Section 460.610 Site Inspections

- a) An MSP employee shall visually inspect meter sites prior to performing any work on site. An MSP employee shall not perform any work unless all hazardous conditions are corrected. If a hazardous condition exists that must be corrected by the DSP, the MSP shall notify the DSP immediately. If a hazardous condition exists that must be corrected by the customer, the MSP shall notify the customer immediately.
- b) An MSP employee shall immediately notify public safety personnel if a hazardous condition exists that might reasonably be expected to endanger the public if not immediately corrected.
- c) If an MSP employee determines that a customer should be designated as a life support customer, the MSP shall notify the DSP of the circumstances and request evaluation of the customer. The MSP may temporarily mark the metering installation with a life support seal until the DSP determines if the customer qualifies as a life support customer. In no case will an MSP classify a customer as a life support customer if the DSP determines that the customer does not qualify.

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## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Standards of Service for Electric Utilities

- 2) Code Citation: 83 Ill. Adm. Code 410

- 3) Section Numbers: Adopted Action:

410.10 Repeal  
410.20 Repeal  
410.30 Repeal  
410.40 Repeal  
410.110 Repeal  
410.120 Repeal  
410.130 Repeal  
410.140 Repeal  
410.150 Repeal  
410.160 Repeal  
410.170 Repeal  
410.175 Repeal  
410.180 Repeal  
410.190 Repeal  
410.200 Repeal  
410.210 Repeal  
410.220 Repeal  
410.230 Repeal  
410.240 Repeal  
410.250 Repeal  
410.260 Repeal  
410.270 Repeal  
410.280 Repeal  
410.290 Repeal  
410.300 Repeal  
410.310 Repeal  
410.320 Repeal  
410.330 Repeal  
410.340 Repeal  
410.350 Repeal

- 4) Statutory Authority: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301 and 10-101]

- 5) Effective Date of Repealer: December 15, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this repealer contain incorporations by reference? No

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

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## NOTICE OF ADOPTED REPEALER

- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, at 24 Ill. Reg. 11098

- 10) Has JCAR issued a Statement of Objection to this repealer? No

- 11) Differences between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.

- 13) Will this repealer replace an emergency repealer currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Repealer: The Commission is adopting new rules at Part 410. The repealed rules, adopted in large part in 1948, are not reflective of advances in technology nor do they recognize the alternative retail electric suppliers that are also supplying electricity pursuant to amendments to the Public Utilities Act that added Article XVI.

- 16) Information and questions regarding this adopted repealer shall be directed to:

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701  
(217)785-3922

ILLINOIS COMMERCE COMMISSION  
NOTICE OF ADOPTED RULES

1) Heading of the Part: Standards of Service for Public Utilities and Alternative Retail Electric Suppliers

2) Code Citation: 83 Ill. Adm. Code 410

3) Section Numbers: Adopted Action:

410.10	New Section
410.20	New Section
410.30	New Section
410.40	New Section
410.45	New Section
410.100	New Section
410.110	New Section
410.120	New Section
410.130	New Section
410.140	New Section
410.150	New Section
410.151	New Section
410.155	New Section
410.160	New Section
410.170	New Section
410.180	New Section
410.190	New Section
410.195	New Section
410.200	New Section
410.210	New Section
410.300	New Section
410.310	New Section
410.320	New Section
410.330	New Section
410.400	New Section
410.410	New Section

4) Statutory Authority: Implementing Sections 8-301, 8-302, 8-501, 9-201, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b) and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b)]

5) Effective Date of Rules: December 15, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? Yes

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

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9) Notice of Proposal Published in Illinois Register: July 28, 2000, at 24 Ill. Reg. 11124

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

Section 410.10: In the definition of "Alternative retail electric supplier", add "or "ARES" means the same as that term is defined" and delete "has the same meaning as defined".

Section 410.10: In the definition of "Billing multiplier", add ", if applicable" after "multiplier" at the end of the definition.

Section 410.10: In the definition of "Electric utility", delete "has the same meaning as"; add "means the same as that term is". Replace "3-105" with "16-102".

Section 410.10: In the definition of "Service watt-hour meters", add ", or volt-amperes" after "watts" at the end of the definition.

Section 410.110(c): Replace "These tabulations" with "Each entity"; replace "be kept on file" with "keep this report" in the last sentence.

Section 410.120(f): Replace "customer's" with "metering" in the first sentence.

Section 410.130(a): In the first sentence, change "this Section" to "subsection (c)".

Section 410.130(c)(4): Replace "Heat With Light" with "special".

Section 410.170: Add:

"c) Direct current watt-hour meters shall be tested at least once every 12 months."

Section 410.200(h)(2): Replace "kept" with "retained"; replace "two" with "at least 2".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: The rules governing the standards of service



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for electric utilities were originally adopted in 1948. Since that time, there have been some amendments to the rules. The language setting the standards of service does not reflect the significant technological changes that have occurred in the industry. Much of the language in Part 410 was originally adopted in 1948. Metering technology in particular has changed significantly since that time. Many of the requirements in Part 410, such as accuracy requirements and testing procedures, are outdated due to the introduction of solid state meters, automatic meter reading, and improved testing equipment. Additionally, Part 410 needs to reflect the existence of alternative retail electric suppliers which are a product of 1997 amendments to the Public Utilities Act. Given the nature of the revision, the Commission was of the opinion that the current rules should be repealed and new rules adopted. The rules cover electric metering standards, electric service standards, customer information, and line extensions.

- 16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701  
(217)785-3922

The full text of the adopted rules begins on the next page:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: ELECTRIC UTILITIES

PART 410  
STANDARDS OF SERVICE FOR ELECTRIC UTILITIES AND ALTERNATIVE RETAIL  
ELECTRIC SUPPLIERS

## SUBPART A: GENERAL

Section	
410.10	Definitions
410.20	Application
410.30	Exemption or Modification
410.40	Complaints
410.45	Customer Call Centers

## SUBPART B: ELECTRIC METERING STANDARDS

Section	
410.100	Application of Subpart B
410.110	Meter Records
410.120	Metering Service Requirements
410.130	Separate Metering
410.140	Testing Facilities and Equipment
410.150	Meter Accuracy Requirements
410.151	Installation and Removal of Lagged Demand Meters
410.155	Installation Inspections
410.160	Initial Tests
410.170	Accuracy Testing of Meters
410.180	Sample Testing Procedures
410.190	Meter Tests Requested by Customer
410.195	Meter Tests Requested by Entity

## SUBPART C: CUSTOMER INFORMATION

Section	
410.200	Corrections and Adjustments for Meter Error
410.210	Information to Customers

## SUBPART D: ELECTRIC SERVICE STANDARDS

Section	
410.300	Voltage Regulation
410.310	Voltage Surveys
410.320	Standard Frequency
410.330	Service Connections

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SUBPART E: EXTENSION OF LINES

Section  
410.400 Application of Subpart E  
410.410 Extension Provisions

**AUTHORITY:** Implementing Sections 8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b) of the Public Utilities Act [220 ILCS 5/8-301, 8-302, 8-501, 9-201, 10-101, 10-107, 16-115(d)(4) and (e)(4), 16-115A(a)(i) and (b), 16-116(b), 16-123, and 17-300(b)].

**SOURCE:** Effective August 1, 1948; amended at 5 Ill. Reg. 6805, effective June 12, 1981; codified at 8 Ill. Reg. 12183, amended at 10 Ill. Reg. 148, effective December 23, 1985; amended at 11 Ill. Reg. 8964, effective May 1, 1987; emergency amendment at 13 Ill. Reg. 16563, effective October 10, 1989, for a maximum of 150 days; amended at 14 Ill. Reg. 3454, effective March 1, 1990; amended at 16 Ill. Reg. 2544, effective February 1, 1992; amended at 19 Ill. Reg. 2804, effective April 1, 1995; emergency amendment at 22 Ill. Reg. 11215, effective June 10, 1998 for a maximum of 150 days; amended at 22 Ill. Reg. 20087, effective November 7, 1998; old Part repealed, new Part adopted at 24 Ill. Reg. 4040, effective 11/1/99.

SUBPART A: GENERAL

Section 410.10 Definitions

"Acceptance testing" means the approval of a group of meters based on statistical testing procedures.

"Act" means the Public Utilities Act [220 ILCS 5].

"Alternative retail electric supplier" or "ARES" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Answer time" means a measurement from the point the last digit of the entity's telephone number is dialed or, if a menu-driven system is used, from the point the last menu digit is dialed by the subscriber and the call is answered by the entity.

"Applicant" means anyone who requests a line extension from an entity providing distribution services.

"Average error" means the difference between 100% and the average percent registration as defined in Section 410.150(d).

"Billing multiplier" means the number by which a meter register reading is multiplied to obtain actual usage data. The billing

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multiplier shall include the transformer multiplier and meter multiplier, if applicable.

"Commission" means the Illinois Commerce Commission.

"Commission referee test" means the accuracy test of any customer's electric meter made in the presence of one or more members of Commission Staff.

"Complaint" means an objection made to an entity, by a customer or another entity, as to its charges, facilities or service, the disposal of which complaint requires investigation or analysis.

"Creep" means a continuous apparent accumulation of energy in a meter with voltage applied and the load terminals open circuited.

"Customer" has the same meaning as "retail customer."

"Demand" means the electric consumption at the point of delivery measured over a specified interval of time in order to estimate the instantaneous electric load.

"Deposit" means an amount paid by an applicant for service to an entity providing distribution services that is intended to cover any line extension expenses that exceed the free limits allowed.

"Electric cooperative" means the same as that term is defined in Section 3.4 of the Electric Supplier Act [220 ILCS 30/3.4].

"Electric utility" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Entity" means each electric utility while providing services within its service area, each electric utility while providing electric power and energy outside its service area, any ARES providing services subject to this Part, and any electric cooperative or municipal system but only when it provides services as an ARES outside its service territory.

"Instrument transformer" means a transformer used for metering that reproduces in its secondary circuit, in a definite and known proportion, the voltage or current of its primary circuit, with the phase relation substantially preserved.

"Meter multiplier" means the number (other than 1) by which the meter register reading is multiplied to obtain meter data not adjusted for the effect of instrument transformation on the calculated amount of actual usage.

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"Meter shop" means a facility containing equipment used by an entity for determining the accuracy of meters.

"Metering service" means the performance of functions related to the provision, installation, testing, maintenance, repair and reading of electric meters used for billing of retail customers and maintaining meter usage data as well as the maintenance and management of meter information and meter data with respect to those meters.

"Municipal system" means any public utility owned and operated by any political subdivision or municipal corporation of the State of Illinois, or owned by such and operated by its lessees or agents.

"Phase-shifting transformer" means an assembly of one or more transformers intended to be connected to a poly-phase circuit so as to provide voltages in the proper phase relations for energizing metering equipment.

"Point of delivery" means the point at which the entity providing distribution facilities connects its lines or equipment to the lines or facilities owned or rented by the customer, without regard to the location or ownership of transformers, substations or meters, unless otherwise provided for by written contract or tariffs.

"Portable standards" means instruments (e.g., watt-hour meters, voltmeters, and ammeters) that are used outside the meter shop to test customer meters.

"Reference standards" means instruments (e.g., watt-hour meters, voltmeters, and ammeters) that are used only for verifying the accuracy of working or portable standards, and whose accuracy is traceable back to the national standard maintained by the National Institute of Standards and Technology or its successor.

"Retail customer" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Service watt-hour meter" means an electricity meter used for billing retail customers and maintaining meter usage data that measures and registers the integral, with respect to time, of the real power that flows in the circuit to which the meter is connected. This also includes meters that measure demand in watts or volt-amperes.

"Test amps" means the electrical current used during meter accuracy testing as designated by the manufacturer and displayed on the meter.

"Transformer multiplier" means the product of the current transformer ratio multiplied by the potential transformer ratio when instrument

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transformers are part of a metering installation.

"Var-hour meter" means an electricity meter that measures and registers the integral, with respect to time, of the reactive power of the circuit in which it is connected. This includes meters that measure demand in vars.

"Working standards" means instruments (e.g., test benches and demand boards) that are used in meter shops to test the accuracy of customer meters.

**Section 410.20 Application**

This Part sets forth minimum requirements and shall apply to any entity in this State. This Part shall not apply to any electric cooperative nor to a municipal system when operating within its service territory. Records required by this Part shall be retained as set forth in 83 Ill. Adm. Code 420, unless longer periods of retention are stated in this Part.

**Section 410.30 Exemption or Modification**

Any entity may file an application requesting modification of or exemption from any Section of this Part that applies to the entity. Upon showing that the modification or exemption is economically and technically sound and will not compromise safety, reliability or the service obligations of the entity, the Commission may grant the modification or exemption. A petition for exemption or modification shall be filed pursuant to 83 Ill. Adm. Code 200 and shall set forth specific reasons and facts in support of the requested exemption or modification.

**Section 410.40 Complaints**

- a) Each entity shall investigate each complaint received. The receipt of all written complaints shall be acknowledged in writing or verbally.
- b) Each complaint received by an entity shall be documented, and any records required by this Part shall be made available to Commission personnel upon request. Each record shall contain, at a minimum, the name and address of the complainant, the time of day and the date received, the nature of the complaint, the result of the investigation and/or analysis, when and by whom conducted, the final disposition of the complaint, and the date of disposition.
- c) Records of complaints related to voltage regulation or accuracy of metering equipment or data, other than requests for meter rereads, shall be kept in the following manner: each entity receiving complaints shall keep an index or file containing all those complaints for 3 years, separated by year. If the entity chooses to maintain an index of complaints, it shall contain enough information to allow access to individual records of each complaint.



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## Section 410.45 Customer Call Centers

- a) Each entity shall maintain a customer call center where customers can reach a representative and receive current information. At least once every 6 months, each entity shall provide written information to customers explaining how to contact the call center. The average answer time for calls placed to the call center shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls. The abandon rate for calls placed to the call center shall not exceed 10%. Each entity shall maintain records of the call center's telephone answer time performance and abandon call rate. These records shall be kept for a minimum of 2 years and shall be made available to Commission personnel upon request. In the event that answer times and/or abandon rates exceed the limits established above, the reporting entity may provide the Commission or its personnel with explanatory details. At a minimum, these records shall contain the following information in monthly increments:

- 1) Total number of calls received;
- 2) Number of calls answered;
- 3) Average answer time;
- 4) Number of abandoned calls; and
- 5) Abandon call rate.

- b) Entities that do not have electronic answering capability that meets the requirements of subsection (a) shall notify the Manager of the Commission's Consumer Services Division or its successor by January 15, 2001 and work with Staff to develop individualized reporting requirements as to the call volume and responsiveness of the call center.

- c) On or before March 1 of every year, each entity shall file a report with the Chief Clerk of the Commission for the preceding calendar year on its answer time and abandon call rate for its call center as described in subsection (a). A copy of the report shall be sent to the Manager of the Consumer Services Division or its successor.

## SUBPART B: ELECTRIC METERING STANDARDS

## Section 410.100 Application of Subpart B

This Subpart applies to all entities that are providing metering service. Each entity shall be responsible for ensuring that its meters and metering service comply with these requirements.

## Section 410.110 Meter Records

- a) Each entity shall keep records that contain the following information about each service watt-hour meter and var-hour meter the entity owns or has in service in this State:

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- 1) manufacturer and date of purchase, along with any testing data provided by the manufacturer that is used by the entity for acceptance testing of the meter;
  - 2) manufacturer or entity identification number;
  - 3) nameplate data, including:
    - A) form designation or circuit description;
    - B) "watt-hour meter" or other description;
    - C) manufacturer's name or trademark;
    - D) manufacturer's type;
    - E) electrical current class;
    - F) rated voltage;
    - G) number of wires;
    - H) frequency;
    - I) test amperes;
    - J) watt-hour meter constant; and
    - K) watt-hour meter test constant (if applicable);
  - 4) date and place of present or most recent installation (entities that do not already retain this information on meters removed from service must begin keeping this information starting with all meters installed or removed from service after January 1, 2001);
  - 5) date and type of last major repair, or of final disposition; and
  - 6) accuracy of each meter in accordance with the testing policies set forth in this Subpart, including:
    - A) date of test;
    - B) reason for test;
    - C) reading and accuracy of meter as found and as left;
    - D) creep test results, if applicable;
    - E) identification of person performing test; and
    - F) identification of equipment used to test meter.
- b) Each entity shall keep records of tests of the accuracy of each of its service watt-hour meters installed in this State until superseded by a later test, but not less than 3 years. Each entity shall keep all other records required by subsection (a) for not less than 3 years.
- c) Each entity having service watt-hour meters installed in this State shall compile a report of the results of all meter accuracy tests required by this Part at least once each year. This report shall include the number of meters tested and the number of meters that tested outside of accuracy limits for each of the following categories: sample testing, periodic testing, and at customer request. Each entity shall keep this report for not less than 8 years.
- d) Each entity having instrument transformers in service in this State shall maintain a record for each instrument transformer that includes the manufacturer's name or trademark, type, and serial number. Each instrument transformer placed in service will be marked with the same information. Each entity shall also retain a record of the most recent accuracy test of each instrument transformer for at least as long as the instrument transformer is in service.

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- e) Each entity having phase-shifting transformers in service in this State shall maintain a record for each phase-shifting transformer that includes the manufacturer's name or trademark, type, and serial number. Each phase-shifting transformer placed in service will be marked with the same information. Each entity shall retain a record of the accuracy of each such phase-shifting transformer for as long as the phase-shifting transformer is in service.

**Section 410.120 Metering Service Requirements**

- a) Each service watt-hour meter shall have a register or display on the front of the meter that displays energy consumption in a definite and known proportion to the actual energy consumption of that customer; is plainly visible; and can be read by the customer. This requirement may be waived in writing by the customer. This requirement shall not affect the entity's right to secure meters for safety reasons or in situations in which the meter is subject to excessive risk of damage or tampering. At the customer's request, a representative for the entity providing metering service shall explain to the customer how to read the meter used for billing that customer.
- b) If a billing multiplier is used to calculate customer usage, the entity shall mark the billing multiplier on the front of the meter (or other location on the metering installation where the multiplier is plainly visible) and identify it as a billing multiplier at the time of installation or test, using a permanent marking method. Any entity providing instrument transformers shall mark the multiplier based on instrument transformer ratios on all new installations, and shall mark the multiplier on all existing installations when periodic meter testing is performed on the meter at that installation. The billing multiplier shall include the transformer multiplier and meter multiplier.
- c) No meter shall be installed that is known to be mechanically or electrically defective, or that has not been tested in accordance with this Subpart and shown to comply with the accuracy requirements in this Subpart.
- d) Meters shall be installed so as to be accessible to metering personnel for reading, testing, and making adjustments and repairs.
- e) Meters installed after January 1, 2001 shall, at a minimum, meet the standards set forth in Section 4.7 of the American National Standards Institute's (ANSI) Code for Electricity Metering (1995 edition, approved June 12, 1995, published by the National Electrical Manufacturers Association, 1300 N. 17th Street, Suite 1847, Rosslyn, Virginia 22209). No later amendments or editions are incorporated.
- f) The entity may refuse to install a meter or to serve a customer if, in the entity's judgement, the metering installation is hazardous or of such character that satisfactory service cannot be provided. In case of refusal, the entity shall inform the customer in writing of the reason for refusal to render service and shall notify within 24 hours

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by telephone or in person the customer and all other entities providing service to that customer.

**Section 410.130 Separate Metering**

- a) Except as otherwise provided in subsection (c), a separate meter shall be used to measure the electricity that is consumed within, and controlled by the occupant of, each individual unit contained in any new building, newly remodeled portion of an existing building, or new mobile home park for which a building permit was obtained on or after November 1, 1981, or, if no permit was required, for which construction was commenced on or after November 1, 1981. Separately metered consumption shall be used as the basis for billing the occupant of the individual unit as a separate customer.
- b) Definitions - For purposes of this Section, the following definitions shall apply:
- 1) "Individual unit" means each portion of a building that is separately leased, rented or owned.
  - 2) "Control" means the ability of the occupant of an individual unit to determine the timing and amount of electricity consumed. Electricity used for central space heating, central water heating, central ventilation or central air conditioning systems is not "controlled" by the occupant of the individual unit.
  - 3) "Remodeled portion of a building" means each area in which interior alterations are made that are required by local code or ordinance.
  - 4) "Mobile home park" means contiguous parcels of land used for the accommodation of occupied mobile homes.
  - 5) "Multiple-unit building" means buildings with more than 4 individual units.
- c) Exceptions - Separate metering and billing of electricity shall not be required for the following:
- 1) Units within buildings normally considered to be temporary domiciles, such as motels, dormitories, health care facilities and nursing homes.
  - 2) Residential units that do not have kitchen and bathroom facilities separate from common use facilities.
  - 3) Portions of buildings in which separate metering is impractical, such as concession stands in lobbies, and individual offices that share office service areas.
  - 4) Buildings for which space heating is provided by electric lighting and that qualify for service under special rates.
  - 5) Multiple-unit buildings that are designated as congregate, assisted-living care facilities for elderly or handicapped persons.
- d) The provisions contained in this Section are minimum requirements and shall not prohibit any electric utility from filing tariffs that impose additional restrictions on the use of master metering.



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- e) Waiver - Any applicant for electric service who is refused master metered service by an entity, and who has exhausted his remedies in the informal complaint process set forth by the Commission (83 Ill. Adm. Code 200.160), may file a formal complaint (83 Ill. Adm. Code 200.170) with the Commission seeking a waiver from the requirements of this Section or the corresponding rules of the entity. The complaint shall comply with the Commission's Rules of Practice (83 Ill. Adm. Code 200) and shall name the entity as a Respondent. The complaint shall allege that the long-run benefits of separate metering are outweighed by the associated costs or that separate metering would otherwise be impractical or unreasonable.

**Section 410.140 Testing Facilities and Equipment**

- a) Each entity shall provide a meter shop adequately equipped with reference standards, instruments and other facilities, equipment, and personnel necessary to make the tests required of the entity by this Part. Each entity shall provide working standards and portable standards necessary to make the tests required of the entity by this Part. All apparatus and equipment shall be available at all times during the entity's established business hours for the inspection of or use by authorized representatives of the Commission. The entity shall take precautions to ensure that the meters used for billing and maintaining customers usage are not damaged in transit to or from any testing facility.
- b) Each entity shall verify the accuracy of all reference standards at least once every 12 months. If the comparison indicates that the reference standard is in error by more than 0.5% on any combination on which it will be used, the entity shall adjust the standard to reduce the inaccuracy, if possible. In any case, the entity shall apply the correction indicated by the certificate or calibration card accompanying the instrument (pursuant to subsection (d)).
- c) When in use for testing meters, all solid state working and portable standards shall be compared to a reference standard at least once every six months. All other working and portable standards used regularly for testing meters shall be compared against a reference standard at least once every month. When working and portable standards are used for purposes other than testing meters, they shall be compared to a reference standard at least once each year. If found in error by more than 0.5%, the entity shall adjust the instrument to read within the specified limits or shall apply the proper correction factor.
- d) Each working, portable or reference standard shall be accompanied at all times by a certificate or calibration card signed or initialed by the person responsible for the calibration giving the date and results of the last calibration of the instrument. The entity shall keep any superseded certificates or calibration cards on file for at least 3 years.

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- e) An authorized representative of the Commission may check or establish the accuracy of all testing equipment owned by each entity, as well as the methods of operation of testing equipment. An authorized representative of the Commission shall perform an audit of each entity's meter testing equipment and methods at least every 3 years.

**Section 410.150 Meter Accuracy Requirements**

- a) The accuracy of service watt-hour meters shall be determined using the following criteria:
- 1) Light Load test: 10% of test amps at 100% power factor;
  - 2) Heavy Load test: 100% of test amps at 100% power factor; and
  - 3) Power Factor test: 100% of test amps at 50% lagging power factor. The power factor test is only required on meter shop tests.
- b) Accuracy limits:
- 1) On any test of a service watt-hour meter, the meter shall be left so adjusted that the error shall not be in excess of the following:
    - A) Average error: 1% fast or slow.
    - B) Error at heavy load: 1% fast or slow.
    - C) Error at light load: 1% fast or slow.
    - D) Error at power factor: 2% fast or slow.
  - 2) Meters shall not be deliberately set in error by any amount.
- c) Each entity shall test a service watt-hour meter for creep at the time it makes any accuracy test of that meter if the percent registration at light load deviates by greater than 2% from the percent registration at heavy load. No service watt-hour meter found to creep shall be placed in service or allowed to remain in service in that condition.
- d) The average percent registration of a watt-hour meter shall be determined by adding the light load registration to 4 times the heavy load registration and dividing that quantity by 5.
- e) Demand meters, when tested on the loads specified in this Section, shall be adjusted, if necessary, to meet the following requirements:
- 1) Demand Meters other than Lagged Demand Meters:
    - A) Electrical element - Error shall not exceed that specified for service watt-hour meters in this Section.
    - B) Timing element - When used to measure time interval only, error shall not exceed 2%. When used also to keep a record of time of day at which the demand occurs, error shall not exceed 0.25%.
  - 2) The demand error for lagged demand meters shall not exceed 3% of full scale indication.

**Section 410.151 Installation and Removal of Lagged Demand Meters**

Lagged demand meters shall not be installed after January 31, 2001. All lagged



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demand meters shall be removed from service by January 31, 2008.

**Section 410.155 Installation Inspections**

Within 90 days after installation or exchange of any meter with associated instrument transformers and/or phase-shifting transformers, a post-installation inspection shall be made under load to determine if the meter is accurately measuring customer energy consumption. At a new or re-wired metering location, where the installation includes potential transformers, the inspection shall be performed by someone other than the original installer.

**Section 410.160 Initial Tests**

Initial tests are tests made before installation, regardless of whether the meter and associated devices have previously been in service. Each meter and associated devices (unless included in the sample testing plan in Section 410.180) shall be inspected and tested in the meter shop of the entity or other location that meets the requirements of this Part before being placed in service, and the accuracy of the meter shall be within the tolerances permitted by this Part. If a meter is removed from a customer's premises, except for field testing, it shall be tested and inspected as described above before it is placed in service again. If creep or inaccuracy is discovered in a meter removed from service, the entity shall correct the metering data as detailed in Section 410.200.

**Section 410.170 Accuracy Testing of Meters**

- a) Each service watt-hour meter and var-hour meter shall be inspected and tested according to the schedule in subsection (b). At the time a service watt-hour meter or var-hour meter is tested, any demand meter associated with it shall be inspected or tested. Each demand meter shall be tested at least as often as the meter with which it is associated and, as nearly as practicable, at the same time. If the service watt-hour meter is of the type in which the same element that measures watt-hours is used to measure demand, then the watt-hour test and the demand test shall be considered to be one and the same.
- b) Alternating current service watt-hour meters and associated var-hour meters shall be tested according to the following schedule:
  - 1) Self-contained single-phase and three-wire network meters:
    - A) Non-demand:
      - i) Sample according to Section 410.180; or
      - ii) 8 years;
    - B) Demand:
      - i) with pulse-operated electronic demand registers: 4 years;
      - ii) with surge-proof magnets or solid state: 8 years.
  - 2) Self-contained 480 volt single-phase and poly-phase meters; transformer-rated single-phase meters:

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- A) Non-demand:
  - i) with surge-proof magnets: 8 years;
  - ii) without surge-proof magnets: 4 years;
- B) Demand:
  - i) Mechanical meters with pulse-operated electronic demand registers: 4 years;
  - ii) with surge proof magnets or solid state: 8 years.
- 3) Transformer-rated poly-phase meters: 8 years.
- c) Direct current watt-hour meters shall be tested at least once every 12 months.

**Section 410.180 Sample Testing Procedures**

- a) Any entity that chooses to use sample testing shall use the procedures prescribed in any of the following documents (alone or in combination) to sample test nondemand, self-contained single-phase or three-wire network meters.
  - 1) ANSI/ASQC Z1.4-1993 "Sampling Procedures and Tables for Inspection by Attributes", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202. No later amendment or editions are incorporated.
  - 2) ANSI/ASQC Z1.9-1993 "Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming", approved 1993, American Society for Quality Control, 611 East Wisconsin Avenue, Milwaukee, WI 53202. No later amendment or editions are incorporated.
  - 3) Military Standard 414 "Sampling Procedures and Tables for Inspection by Variables", approved May 8, 1968, Defense Automation and Production Service, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111-5094. No later amendment or editions are incorporated.
  - 4) Military Standard 105 "Sampling Procedures and Tables for Inspection by Attributes", approved May 10, 1989, Defense Automation and Production Service, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111-5094. No later amendment or editions are incorporated.
- 5) If, on December 15, 2000, an entity does not already use sample testing in accordance with subsection (a)(1) or (a)(2), the entity must begin to sample test in accordance with subsection (a)(1) or (a)(2), starting with the earlier of either the entity upgrading to a new sample testing tracking program or January 2010.
- 6) If, on December 15, 2000, an entity does use sample testing in accordance with subsection (a)(1) or (a)(2), that entity shall continue to use a sample testing program in accordance with subsection (a)(1) or (a)(2);
- b) The entity shall divide the meter population into homogeneous groups consisting of meters of the same basic type and purpose. A sample

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- shall be taken each year from each homogeneous group.
- c) A minimum acceptable quality level of 2.5% shall be adopted as part of each entity's sampling plan.
  - d) Each entity shall perform 100% testing on all used or remanufactured meters purchased.
  - e) Each entity using sample testing shall file a yearly report no later than March 31 of the following year with the Chief Clerk of the Commission and provide a copy to the Manager of the Energy Division or its successor detailing the sample plan used in the previous year, along with the results of the testing program.

## Section 410.190 Meter Tests Requested by Customer

- a) Upon customer request, the entity providing metering service to that customer shall test the customer's meter within 30 days after receiving the request, unless the customer agrees to a later time. The meter test shall be performed between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless some other time is agreed upon by the entity and the customer. The test shall be performed at the meter installation location and in the customer's presence, unless the customer gives consent for the meter to be removed and/or tested outside the customer's presence.
- b) If the customer's meter has been tested at the request of another entity or customer while in service at the same location within the past 6 months, the entity may provide the results of that test in reply to the customer's request in lieu of the test specified in subsection (a).
- c) An entity shall not require any payment from the customer for a meter test, unless a test has been performed on that meter at that customer's request within the previous 12 months, or information has been provided as in subsection (b) within the past 6 months. In such cases, the customer shall be required to pay \$40 to the entity. The entity shall refund the \$40 deposit to the customer if the entity finds that the meter over-registers by more than 2%.
- d) Commission referee tests
  - 1) Upon written application to the Commission by any customer, the entity providing metering service shall test the customer's meter within 30 days after receiving notice of the written request from a Commission representative, unless the customer agrees to a later time. The application for a Commission referee test shall be accompanied by a fee of \$20. The entity shall conduct this test under the supervision of a representative of the Commission.
  - 2) On receipt of the request from a customer, a Commission representative shall notify the entity. After the entity has received notice that application has been made for a referee test, the entity shall not disturb the meter in any way, unless the customer or the Commission gives written permission for the meter to be removed.

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- 3) The entity shall furnish to the Commission's representative such assistance as may be required to make the test. The Commission shall make a written report of the results of the test to the customer within 30 days after the test.
- 4) If upon test the meter is found to over-register by more than 2%, the entity shall reimburse the customer the amount paid to the Commission for the test. The entity shall also make any necessary metering data adjustment.
- e) No entity shall be required to perform more than 2 tests of the same meter installed at the same location at customer request within a 12 month period, unless a Commission referee test is requested. After a Commission referee test, the entity shall not be required to test the same meter for a period of at least 12 months.

## Section 410.195 Meter Tests Requested by Entity

- a) Upon another interested entity's request, the entity providing metering service shall test the meter within 30 days after receiving the request, unless the requesting entity agrees to a later time. The meter test shall be performed between 7 a.m. and 4 p.m. Monday through Friday, excluding holidays, unless some other time is agreed upon by the entities. The test shall be performed at the meter installation location and in the presence of a representative of the requesting entity, unless the requesting entity gives consent for the meter to be removed and/or tested without the representative's presence.
- b) If the meter has been tested at the request of another party while in service at the same location within the past 6 months, the entity may provide the results of that test in reply to the entity's request in lieu of the test specified in subsection (a).
- c) Meter tests requested by other entities may be performed at any time agreeable to both entities if the customer's electrical service will not be interrupted by the test. If the customer's electrical service will be interrupted by the test, the testing entity or requesting entity shall obtain permission from the affected customer to interrupt the service before the test is performed.
- d) The entity requesting the meter test shall be required to pay the actual cost (not to exceed \$250) of performing the test to the entity performing the test. The entity performing the test shall refund the payment to the other entity if the meter over-registers by more than 2%. No entity shall induce a customer to request a meter test on behalf of that entity to avoid paying the actual cost of the meter test.
- e) The entity providing metering service shall not be required to provide more than 1 test on the same meter at the same location more than once every 3 years at the request of another entity, unless the other entity requests a Commission referee test.
- f) If an entity requests a Commission referee test, the requesting entity shall pay \$20 to the Commission and the actual cost (not to exceed



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\$250) of the test to the entity providing metering service. If the meter over-registers by more than 2%, the entity providing metering service shall refund both fees to the requesting entity and make any necessary meter data adjustment. The entity providing metering service shall not be required to provide a Commission referee test on the same meter at the same location more than once every 12 months.

## SUBPART C: CUSTOMER INFORMATION

**Section 410.200 Corrections and Adjustments for Meter Error**

- a) Whenever any test made by any entity or by the Commission shows a meter to have an average error of more than 2%, a correction of the metering data shall be determined by the entity providing metering service and that correction shall be conveyed within 3 business days to the customer and to other entities involved in billing the customer.
- b) When a meter is found to have an average error of more than 2%, the entity providing metering service shall determine the metering data correction using the actual percentage of error as determined by the test, not the difference between the allowable error and the error found as a result of a test.
- c) If the meter is found to run faster than allowable, the entity providing metering service shall determine the correction to the metering data for that meter. In determining the correction it shall be presumed, unless demonstrated otherwise, that the inaccuracy has existed for a period of 2 years. This period of presumed inaccuracy shall not exceed the time for which records of the current customer's usage exist.
- d) If the meter is found to be slower than allowable, the entity providing metering service shall determine the correction to the metering data for that meter. In determining the correction, it shall be presumed, unless demonstrated otherwise, that the inaccuracy has existed for a period of 1 year prior to the test for small commercial and residential customers and 2 years prior to the test for all other customers.
- e) In the case of a non-registering meter that has been read during the period of non-registration, the entity providing metering service shall not determine a correction to metering data for estimated consumption extending over more than twice the regular interval between readings.
- f) No corrections to metering data for meter error shall extend beyond the in-service date of the meter discovered to be in error, nor shall any correction be required to extend beyond the date upon which the current customer first occupied the premises at which the error is discovered.
- g) Whenever an entity or the Commission's representative finds that a service watt-hour meter, while in service, exhibits creep, the entity

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shall make an estimate of the registration caused by the creep during the period as specified under subsection (c) and shall make a corresponding correction in the metering data.

## h) Billing adjustments

- 1) For electric utilities. Any correction to metering data for over-registration shall be accompanied by an adjustment to customer billing by any electric utility that rendered service that is affected during the period of adjustment. Corrections made to metering data for under-registration may be accompanied by an adjustment to a customer's billing. However, if an electric utility is providing metering service, in no case shall an adjustment to a customer's billing be made for under-registration if all testing and accuracy requirements of this Part have not been met.
- 2) For entities other than electric utilities. Any correction to metering data made by any entity other than an electric utility and all records relating to the adjustment of the customer's billing or charges shall be retained for at least 2 years.
- i) Provisions of this Section do not apply to situations in which the customer's wires, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering.

**Section 410.210 Information to Customers**

- a) Bills rendered to retail customers for service shall clearly show at least the following:
  - 1) The date of the meter reading, the number of days in the billing period, the energy used, the meter constant if applicable, the type of service rendered, a complete description of the service or rate classification under which the customer receives service, and the type of reading that was used in the bill calculation (such as actual, estimated or customer readings), and, for meters for which beginning and ending meter readings are used as billing determinants, the reading of the meter at the beginning and the reading of the meter at the end of the period for which the bill is rendered.
  - 2) In the event that a bill rendered to retail customers is not based on usage derived from meter readings, the bill must indicate the period of time for which the bill is rendered, the type of service rendered, and a complete description of the service or rate classification under which the customer receives service.
  - 3) The total amount of the bill and, when applicable, the following portions that make it up, listed vertically for easy readability:
    - A) the monthly customer charge or portion thereof;
    - B) the demand charges;
    - C) the cost of energy detailed by the energy used and the price per unit for each change in the unit price;



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- D) the cost of fuel adjustment;
- E) any other applicable adjustments (other charges not under categories of charges but relating to services, energy, or other programs provided to customers by the entity);

- F) State tax;
- G) municipal tax;
- H) infrastructure maintenance fee;
- I) transition charge; and
- J) optional services listed separately;

- 4) The due date of the bill.
- 5) Definitions or explanations of any abbreviations and technical words used on the bill.

- 6) The name and the toll-free telephone number of each service provider whose services to the customer appear on the bill.

- 7) The average use per day for the period over which the bill is rendered and for the comparable period one year earlier, and an indication of the difference in temperatures between the two periods. If this information is not available for a customer, the bill shall so state.

- b) Each entity, upon request by a customer, shall transmit at a minimum a statement of the actual consumption of energy by the customer at the customer's present billing address for each billing period during the immediately preceding 12-month period for which that customer was receiving service.

- c) All electric utilities shall have on file with the Commission a proposed tariff under Section 9-201 of the Act [220 ILCS 5/9-201] that contains a bill form complying with the requirements of subsection (a). By June 15, 2001, all billings shall comply with the requirements of subsection (a).

- d) As mandated by Section 8-302 of the Act [220 ILCS 5/8-302], whenever a customer for whom an electric utility provides metering service provides the utility with a written request asking the meter reader to leave a card showing these meter readings and dates, the electric utility shall have its meter reader leave a card showing these meter readings and dates.

- e) Each electric utility shall disclose to each of its customers information about the customer's service in a clear and concise manner. The disclosure shall contain the following minimum requirements:

- 1) A description of the rates or charges for the rate classification under which the customer receives service;
- 2) An identification and explanation of optional or experimental rates or classifications available to customers; and
- 3) An identification and explanation of all charges that are not related to costs incurred in service and the supply of energy to that customer.

- f) In addition, for customers served under the residential and commercial classifications, this disclosure statement shall contain the

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following:

- 1) An explanation of the terms appearing on the customer's bill form; and
- 2) An example of how to calculate a bill using the customer's existing rate.

- g) Disclosure statements shall be provided:

- 1) To each new customer, not later than 60 days after the date of commencement of service, through a billing insert, separate mailing or direct customer contact by a representative of the entity providing billing.

- 2) To all affected customers in the event of a change in overall rate levels. The disclosure statement shall be transmitted, at a minimum, within the second complete billing cycle after the rates become effective following the issuance of a final order in any rate proceeding. If the disclosure is sent during a period in which proration occurs, a statement such as the following shall be incorporated in the text:

"This summary is being sent during a period in which proration occurs. Proration occurs when part of your bill is charged on old rates and part of your bill is charged on new rates. If an attempt is made to calculate your bill using this rate summary, your calculation will not yield the proper billing amount for this billing period, but will do so in subsequent months. We recommend that you retain this summary for future reference in computing proper billing amounts."

- h) Each ARES shall provide to all residential and small commercial customers, at least annually, a disclosure statement with the following information:

- 1) the average monthly prices; and
- 2) the terms and conditions of the products and services sold to the customer.

- i) At least annually, each electric utility shall provide to small commercial and residential customers an identification and explanation of optional or experimental rates or classifications available to the customer.

SUBPART D: ELECTRIC SERVICE STANDARDS

Section 410.300 Voltage Regulation

- a) Standard voltage. Each entity supplying electrical energy for general use shall adopt a standard service voltage of 120 volts (when measured phase to neutral) and shall maintain the service voltage within the allowable variations from that value at all times.
- b) Allowable voltage variations. For service rendered at the standard service voltage, voltage variations as measured at any customer's

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point of delivery shall not exceed a maximum of 127 volts nor fall below a minimum of 113 volts for periods longer than two minutes in each instance. For service rendered at voltages other than the standard voltage value, voltage variations as measured at any customer's point of delivery shall not exceed 10% above or below the service voltage for a longer period than two minutes in each instance. Variations of voltage in excess of those specified above shall not be considered a violation of this Section if caused:

- 1) by operations of a retail customer in violation of an agreement with or the rules of the entity;
- 2) by the operation of apparatus on a retail customer's premises that results in large inrush currents;
- 3) by infrequent and unavoidable fluctuations of short duration due to system operation; or
- 4) by acts of nature or other situations beyond the entity's control.

**Section 410.310 Voltage Surveys**

- a) Each entity shall make voltage surveys of its system to keep itself informed regarding the character of the service being furnished from the system. Such surveys may be made by recording instruments, analytical methods, or a combination of these methods.
- b) All charts or readings taken or analyses made in voltage surveys shall be retained for at least 5 years and kept in a systematic manner. The entity shall record the date, hour and place of the test, distance from the transformers, size of transformers, the instruments used, and the name of the persons making the test.
- c) For use in making voltage surveys, each entity shall provide portable recording voltmeters. These instruments shall be of a type and range suited to the voltage supplied.
- d) Each entity shall install and maintain recording voltmeters on its system to indicate the adequacy of voltage control methods and equipment.

**Section 410.320 Standard Frequency**

Each entity that supplies alternating current for use by retail customers in this State shall operate its equipment in a manner that the frequency of the alternating current maintained by the operation of the interconnected transmission systems is not degraded as a result of any action or lack of action on the part of the entity.

**Section 410.330 Service Connections**

An entity providing distribution services shall furnish and install without charge a service connection of reasonable length from the distribution system to the point of delivery on the customer's property, unless otherwise provided

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for in the utilities' tariffs.

## SUBPART E: EXTENSION OF LINES

**Section 410.400 Application of Subpart E**

This Subpart shall not apply to applicants for auxiliary, standby or temporary service. Each entity providing distribution services shall file line extension provisions with the Commission that set forth conditions and terms for provision of auxiliary, standby, or temporary service.

**Section 410.410 Extension Provisions**

- a) If an extension of a entity's distribution system is necessary in order to serve an applicant or group of applicants, the entity providing distribution services, upon written request for service by the applicants, shall make the necessary line extension. The line extension shall be made along a street, highway or other right-of-way to the nearest point adjacent to the point of delivery for the applicants. The applicant or group of applicants must agree to the provisions of this Section before the line extension is made.

- 1) The entity providing distribution services may file a line extension provision in conjunction with its rate schedule. If the entity providing distribution services files a line extension provision, that provision shall be worded so that the applicant will have a choice of obtaining the extension under the provision or obtaining the extension under subsections (b) and (c). If the line extension provision is permitted to become effective by the Commission, then the applicant may proceed under the line extension provision or under subsections (b) and (c).

- 2) Alternatively, the filed line extension provision may be in lieu of subsections (b) and (c) instead of an option; however, if the entity providing distribution services files a line extension provision in lieu of subsections (b) and (c), the line extension provision shall not become effective unless the entity providing distribution services demonstrates that the line extension provision is generally more favorable to applicants than the provisions of subsections (b) and (c). After specific action by the Commission by order, the line extension provision shall become effective.

- b) Free extensions

- 1) If an extension of the entity's distribution system is necessary in order to serve an applicant or a group of applicants, the entity shall extend its line without charge for each applicant along the street, highway or other available right of way to the nearest point adjacent to the premises of the applicants, upon written request for service. If the entity believes the cost of providing the extension is excessive, the entity may file a

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

request with the Commission for a modification of this requirement for a specific extension. The line extension furnished without charge shall be the cost equivalent of up to 250 feet of single-phase overhead line per customer and shall include any necessary delivery voltage transformer and its associated protective devices for each customer. No free extension shall be made from existing lines on which refunds are due from previous deposits. If a refund is due from a previous deposit, any further extension shall be made only upon the applicant making a deposit equal to the full estimated cost of the required additional extension.

- 2) If all or part of a line extension is made on existing poles and costs less than the cost of constructing the free extension described in subsection (b)(1), the entity shall not charge for the extension.

c) Extension in excess of the free limit

- 1) If the cost of the line extension is greater than that allowed in subsection (b), the entity shall make the line extension and shall own, maintain, and replace the line extension upon agreement by the applicant or group of applicants to deposit with the entity an amount under the original or any subsequent extension, equal to the estimated cost of the extension above the free limits.

- 2) The cost of extensions in excess of the free limit, and any resulting deposits, shall be allocated among customers based on their respective share of the length of the line extension. Deposits will be refundable based on changed circumstances or shared use for a period of ten years from the date the line extension is placed in service.

- 3) In no case shall a refund exceed the original deposit.

- 4) If the premises of a customer are so located that they could be served by extending a parallel separate line at less cost than the amount of deposit that would be required from them for connection to the existing extension, the customer shall not be required to deposit in excess of the estimated cost of the separate line. The customer shall not share in any refunds so long as the deposit remains less than that of other depositors on the line extension.

- 5) Combining of rural service. For the purposes of determination of the deposits and refunds, a farm applicant whose premises include a number of buildings such as barns, employees' houses, etc., for which electric service is desired may qualify as a single applicant, provided the farm applicant constructs the necessary facilities required to supply the various buildings from a mutually agreed upon point conveniently located near the entity's lines. This shall not be construed as including electric service to buildings occupied by a tenant who leases land or conducts a business separate from that of the land owner.

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- 6) In the event an option is available for a line extension to a group of applicants, the decision of the majority of the applicants will determine which option is implemented.

- 7) Determination of deposit. The distance of the electrical equipment installation from the available primary or secondary circuit that is nearest to the route that normally would be used in making the extension that is on available right-of-way shall be considered in determining whether an applicant is entitled to a free extension, and the cost of extending this circuit shall be used as the basis in determining the amount of deposit necessary in case the extension is above the free limit.

- d) Commission review. If the extension is of such length and the prospective business that may be developed by it is so meager as to make it doubtful whether the business from the extension would ever pay a fair compensation for its investment, operation, maintenance and replacement, or for other substantial reasons is unwarranted, the fact shall be reported to the Commission for investigation and determination as to the reasonableness of the extension.



## OFFICE OF THE COMPTROLLER

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

2) Code Citation: 74 Ill. Adm. Code 330

3) Section Numbers: Adopted Action:  
330.70 Amendment

4) Statutory Authority: 30 ILCS 540

5) Effective Date of Rulemaking: December 18, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 22, 2000; 24 Illinois Register 14124

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect?  
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking amends Section 330.709(c) to reflect the most recent language and dollar threshold for execution of contracts.

16) Information and questions regarding this adopted amendment shall be directed to: Whitney Wagner Rosen, Legislative Counsel  
Office of the Comptroller  
201 State Capitol  
Springfield, Illinois 62706  
217/782-0905

The full text of the adopted amendment is identical to the Department of Central Management Services amendment to these joint rules at 77 Ill. Adm. Code

## OFFICE OF THE COMPTROLLER

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900, which is published in this issue of the *Illinois Register*.

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Determination Of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2770
- 3) Section Number: Adopted Action:  
2770.110 Amended Section
- 4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.
- 5) Effective Date of the Amendment: January 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain an incorporation by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: September 15, 2000 at 24 Ill. Reg. 13759.
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Amendments: The amendment to Part 2770 announces the 2001 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the obsolete subsection with the rates for 1995 as it is no longer needed.
- 16) Information and questions regarding these adopted amendments may be addressed to: Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
401 South State Street - 7 South  
Chicago, Illinois 60605  
312/793-4240

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begin on the next page:

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

## PART 2770

## DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

## SUBPART AB: STANDARD INDUSTRIAL CLASSIFICATION

Section  
2770.100 Industrial Classification  
2770.105 Contribution Rate For Non Experience-Rated Employers  
2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

## SUBPART BE: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section  
2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)  
2770.155 Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)  
2770.160 Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)  
2770.165 Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)  
2770.170 Appeals (Repealed)

## SUBPART CB: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section  
2770.400 Definitions (Repealed)  
2770.405 Application of Base Period Wages (Repealed)  
2770.410 Restriction On Benefit Wage Transfers (Repealed)  
2770.415 Benefit Wage Transfer Procedural Requirements (Repealed)  
2770.420 Petition For Hearing (Repealed)

## SUBPART DP: BENEFIT WAGE CANCELLATIONS

Section  
2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

## TABLE A General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

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SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days, expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 21 Ill. Reg. 561, effective January 1, 1997; amended at 21 Ill. Reg. 15496, effective January 1, 1998; amended at 23 Ill. Reg. 155, effective January 1, 1999; amended at 23 Ill. Reg. 14299, effective January 1, 2000; amended at 24 Ill. Reg. 13335, effective \_\_\_\_\_.

## SUBPART AB: STANDARD INDUSTRIAL CLASSIFICATION

Section 2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

a) The average contribution rate for each Economic Division, excluding the fund-building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Bigits	Economic Division	Rate
01-09	A--Agriculture-Forestry	4-0%
	Fishing	
10-14	B--Mining	4-5%
15-17	C--Construction	5-0%
20-39	D--Manufacturing	3-2%
40-49	E--Transportation-Communication-Electric-Gas	3-0%
	Sanitary-Services	
50-51	F--Wholesale-Retail	2-4%



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52-59	G. Retail Trade	1.9%
60-67	H. Finance, Insurance, Real Estate	1.7%
70-89	I. Services	1.0%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.5%

a) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%
60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

be) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.2%
10-14	B. Mining	3.6%
15-17	C. Construction	3.8%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%

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52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

cd) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1998, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.1%
10-14	B. Mining	3.4%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

de) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1999, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.2%
15-17	C. Construction	3.3%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.4%
52-59	G. Retail Trade	1.1%
60-67	H. Finance, Insurance, Real Estate	1.1%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

ef) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2000, as determined by the application of Section

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2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.1%
15-17	C. Construction	3.2%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.3%
52-59	G. Retail Trade	1.0%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2001, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.8%
10-14	B. Mining	3.2%
15-17	C. Construction	3.0%
20-39	D. Manufacturing	1.6%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.6%
50-51	F. Wholesale Trade	1.2%
52-59	G. Retail Trade	0.9%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.0%
91-97	J. Public Administration	0.9%

(Source: Amended at 24 Ill. Reg. 191.24, effective

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## NOTICE OF ADOPTED AMENDMENTS

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## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Malpractice Data Base

2) Code Citation: 50 Ill. Adm. Code 928

Section Number:	Adopted Action:
928.10	Amended
928.20	Amended
928.30	Amended
928.40	Amended
928.50	Amended
EXHIBIT A	Amended
EXHIBIT B	Amended
EXHIBIT C	Amended

4) Statutory Authority: Implementing Section 155.19 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.19 and 401].

5) Effective Date of Amendments: January 1, 2001

6) Do these amendments contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 21, 2000, 24 Ill. Reg. 10558

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

a) Section 928.20(a), in the second sentence, add "to the same extent as is prescribed by law pursuant to Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19]" following "Department". Also delete the third sentence.

b) Section 928.30, in the definition of "Insurance Claim Filed", on the first line, delete "incident, report or" and add "insurance claim, as defined in this Section" in lieu thereof. Also on the second line, strike "file". On the sixth line, delete "resulting from any act, error or omission in the rendering of, or failure to render, medical services".

c) Section 928.40, add "d) Beginning January 1, 2001, insurers shall only be required to file reports required by subsection (a) and (b) of

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this Section upon request of the Director for providers who are any other entity that arranges for the delivery or furnishing of health care services."

d) Section 928.Exhibit A, #5a, delete "(Code)" and add "Y or N" in lieu thereof.

e) Section 928.Exhibit C(e), delete all text following the colon and change the colon to a period.

f) Section 928.Exhibit C(h)(2), change "and" to "or".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: This Part is being amended in order to update the actual formal requirements for insurers to file medical malpractice information with the Department. Companies have the option to file claim information electronically using a comma delimited format or using the Microsoft Word software program developed by the Department. Electronic filing of claim information is preferred by the Department, but is not required at this time.

16) Information and questions regarding these adopted amendments shall be directed to:

Yoko Chism  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 524-5420

The full text of the adopted amendments begins on the next page:



DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS  
TITLE 50: INSURANCE  
CHAPTER 1: DEPARTMENT OF INSURANCE  
SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES  
PART 928  
MEDICAL MALPRACTICE DATA BASE

Section  
928.10 Authority  
928.20 Purpose and Scope  
928.30 Definitions  
928.40 Reports  
928.50 Effective Date (Repealed)

EXHIBIT A Illinois Medical Professional Liability Insurance Uniform Claims Report  
EXHIBIT B Illinois Medical Liability Paid and Closed Insurance Claims Report Form  
EXHIBIT C Illinois Medical Liability Insurance Uniform Claims Report Instructions Information-Detail

AUTHORITY: Implementing Section 155.19 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.19 and 401].

SOURCE: Filed February 2, 1977, effective March 1, 1977; codified at 7 Ill. Reg. 892; amended at 24 Ill. Reg. 13138, effective 13138.

Section 928.10 Authority

This Part Rule is promulgated by the Director of Insurance under Section 401 of the Illinois Insurance Code [215 ILCS 5/401] (Ill.-Rev-Stat--1987--ch--797 par--1013), which empowers the Director "to make reasonable rules and regulations as may be necessary for making effective..." the insurance laws of this State. The purpose of this Part Rule is to implement Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19] (Ill.-Rev-Stat--1987--ch--797 par--767-19).

(Source: Amended at 24 Ill. Reg. 13138, effective 13138.)

Section 928.20 Purpose and Scope

a) This Part establishes a uniform format for the reporting of information relating to allegations of physicians, hospitals or other health-care provider liability. Individual liability data records filed by insurers pursuant to this Part will be held confidential by the Department, to the same extent as is prescribed by law pursuant to

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Section 155.19 of the Illinois Insurance Code [215 ILCS 5/155.19].  
b) This Part Rule shall apply to all companies licensed to do an insurance business in this State that is transacting the kind or kinds of business described as Class 2(c) of Section 4 of the Illinois Insurance Code [215 ILCS 5/4] (Ill.-Rev-Stat--1987--ch--797--par-767).

(Source: Amended at 24 Ill. Reg. 13138, effective 13138.)

Section 928.30 Definitions

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Insurance Claim means a formal or written demand for compensation under a medical liability insurance policy relating to allegations of liability on the part of one or more providers, as defined in this Section, for any act, error or omission in the rendering of, or failure to render, medical services for medically related injuries.

"Insurance Claim Closed means Claim-closed." "A-claim-closed-shall mean any insurance claim as defined in this Section in-Section-928-30 for which final payment has been made on-the-loss or for which the loss reserve is withdrawn by the insurer.

"Insurance Claim Filed means any insurance claim, as defined in this Section Claim-filed." "A-claim-filed-with-an-insurer-shall-mean-any file-that-is-established-as-a-result-of-a-claim that alleges liability on the part of any provider, as defined in this Section, physician, hospital or other health-care provider for medically related injuries, for which a loss or loss experience reserve is established under a medical liability insurance policy.

Insurer means an insurance company which has delivered or issued for delivery in this State a medical liability insurance policy.

Lawsuit means a complaint filed in any court in this State alleging liability on the part of one or more providers, as defined in this Section, for any act, error or omission in the rendering of, or failure to render, medical services for medically related injuries.

"Lawsuit Closed means Suit-closed." "A-suit-closed-shall-mean any lawsuit suit as defined in this Section in-Section-928-30 for which final disposition has been reached.

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"Lawsuit Filed means a ~~suit~~-filed-A lawsuit ~~suit~~ filed in any court of this State ~~shall mean any suit that is filed~~ that alleges liability on the part of any physician, hospital or other health care provider for medically related injuries.

Provider means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care services and also includes any other entity that arranges for the delivery or furnishing of health care services.

(Source: Amended at 24 Ill. Reg. 19137, effective )

Section 928.40 Reports

- a) All insurance claims filed after December 31, 1976, and all lawsuits ~~suits~~ filed after December 31, 1976, shall be reported to the Director by the insurer and contain the ~~of insurance-on-a-form-containing~~ information ~~as~~ set forth in Exhibit A of this Part. Preferably this report should be filed with the Director electronically; however, hard copy form will still be accepted.
- b) All insurance claims closed and all lawsuits ~~suits~~ closed that were previously reported pursuant to subsection (a) of this Section in ~~Section-928-40(a)~~ shall be reported to the Director by the insurer and contain ~~of insurance-on-a-form-containing~~ the information ~~as~~ set forth in Exhibits A and B of this Part.
- c) Beginning January 1, 1977, the reports required by subsections (a) and (b) of this Section ~~Section-928-40(a) and -928-40(b)~~ shall be filed with the Director ~~of insurance~~ at least once each month and shall cover all insurance claims and lawsuits ~~suits~~ filed or closed in that month or the preceding month.
- d) Beginning January 1, 2001, insurers shall only be required to file reports required by subsections (a) and (b) of this Section upon request of the Director for providers who are any other entity that arranges for the delivery or furnishing of health care services.

(Source: Amended at 24 Ill. Reg. 19137, effective )

Section 928.50 Effective Date (Repealed)

~~This Rule shall be effective-March-17-1977-~~

(Source: Repealed at 24 Ill. Reg. 19137, effective )

DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS

Section 928-EXHIBIT A Illinois Medical Professional Liability Insurance Uniform Claims Report

File one report for each defendant insured by filing insurer. Include claims closed without payment. Complete all requested information on each report. If the information is unknown, enter UK; if not applicable, enter NA. When an item calls for a dollar amount and no amount is involved, enter 0 in the space. Each entry marked (CODE) requires a specific code which is identified in Exhibit C of this Part. Record all amounts in whole dollars only, all dates as MM/DD/YY and all ages (on date of occurrence) as YY.

Complete For All Claims

- 1a. Name of Insurer: \_\_\_\_\_
- 1b. Claim File ID#: \_\_\_\_\_
- 2a. Date of Injury: \_\_\_\_\_
- 2b. Date Reported to Insurer: \_\_\_\_\_
- 2c. Date Reopened: \_\_\_\_\_
- 2d. Date of Original Closure (if reopened): \_\_\_\_\_
- 3a. Insured's Name: \_\_\_\_\_
- 3b. Insured's Age: \_\_\_\_\_
- 3c. City: \_\_\_\_\_ 3d. State: \_\_\_\_\_ 3e. Zip: \_\_\_\_\_
- 4a. Profession or Business (CODE): \_\_\_\_\_
- 4b. Specialty (CODE): \_\_\_\_\_
- 4c. Type of Practice (CODE): \_\_\_\_\_
- 5a. Board Certification: Y or N \_\_\_\_\_
- 5b. Foreign Medical Graduate? \_\_\_\_\_ 5c. Country: \_\_\_\_\_
- 6a. Place where Injury Occurred (CODE): \_\_\_\_\_
- 6b. City: \_\_\_\_\_ 6c. State: \_\_\_\_\_ 6d. Zip: \_\_\_\_\_
- 7a. Name of Institution (if injury occurred in institution): \_\_\_\_\_
- 7b. Location in Institution (CODE): \_\_\_\_\_

## DEPARTMENT OF INSURANCE

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8a. Injured Person's Name: \_\_\_\_\_  
8b. Injured Person's Age: \_\_\_\_\_  
8c. Sex of Injured Person: \_\_\_\_\_  
9a. Total Defendants Involved in Claim: \_\_\_\_\_  
9b. Derivative Claim (CODE): \_\_\_\_\_

## Complete-for-all-claims

1. Name-of-insurer-----Claim-file-identification-----  
2. Date-of-injury-----Date-reported-----Date-reopened-----  
3. Insured's name-----Age-----City-----State-----Zip-----  
4. Profession--or--business-----Specialty-----Type--of--  
Practice-----  
5. Board-----Certification?-----Foreign-----medical-----graduate?  
-----Country-----  
6. Place-----where-----injury-----occured-----City-----  
-----State-----Zip-----  
7. Name-of-institution-----  
8. Injured-person's name-----in-----claim-----  
9. Total-----defendants-----involved-----in-----claim-----  
-----Derivation-claim-----

(Source: Amended at 24 Ill. Reg. 11.1, effective \_\_\_\_\_)

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## Section 928. EXHIBIT B Illinois Medical Liability Paid and Closed Insurance Claims Report -Form

Complete for Paid and Closed Insurance Claims Only:

10. Amount of reserve for indemnity if still outstanding: \$ \_\_\_\_\_  
11. Amount of reserve for expense if still outstanding: \$ \_\_\_\_\_  
12a. Attorney for Plaintiff: \_\_\_\_\_  
12b. City: \_\_\_\_\_ 12c. State \_\_\_\_\_ 12d. Zip: \_\_\_\_\_  
13. Describe action which caused insurance claim to be made: \_\_\_\_\_

14a. Final diagnosis for which treatment was sought or rendered (patient's actual condition): \_\_\_\_\_

14b. Describe misdiagnosis made, if any, of patient's actual condition: \_\_\_\_\_

15. Operation, diagnostic or treatment procedure causing the injury: \_\_\_\_\_

16a. Describe principal injury giving rise to the claim: \_\_\_\_\_

16b. Severity of Injury (CODE): \_\_\_\_\_

17a. Misadventures in Procedures (CODE): \_\_\_\_\_

17b. Misadventures in Diagnosis (CODE): \_\_\_\_\_

18a. Others Contributing to Injury (CODE): \_\_\_\_\_

18b. Associated Issues (CODE): \_\_\_\_\_

18c. Coverage: \_\_\_\_\_

19. Companion Claim File ID#s: \_\_\_\_\_



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1. 2. 3. 4.
- 20a. Date of this Payment or Closure: \_\_\_\_\_
- 20b. Claim Disposition (CODE): \_\_\_\_\_
- 20c. Settlement (CODE): \_\_\_\_\_
- 21a. Court (CODE): \_\_\_\_\_
- 21b. Binding Arbitration (CODE): \_\_\_\_\_
- 21c. Review Panel (CODE): \_\_\_\_\_
22. Indemnity paid by insurer on behalf of named insured/defendant:  
\$ \_\_\_\_\_
23. Other indemnity paid by or on behalf of named insured/defendant:  
\$ \_\_\_\_\_
24. Indemnity paid by all parties (for all defendants): \$ \_\_\_\_\_
25. Loss adjustment expense paid to all defense counsel:  
\$ \_\_\_\_\_
26. All other allocated loss adjustment expense paid by insurer:  
\$ \_\_\_\_\_
27. Injured person's incurred medical expense: \$ \_\_\_\_\_
28. Injured person's anticipated future medical expense: \$ \_\_\_\_\_
29. Injured person's incurred wage loss: \$ \_\_\_\_\_
30. Injured person's anticipated wage loss: \$ \_\_\_\_\_
31. Injured person's other expense: \$ \_\_\_\_\_
32. Total amount allocated for future periodic payments (for all defendants):  
\$ \_\_\_\_\_
33. Person Responsible for Preparing this Report: \_\_\_\_\_

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34. Contact Person for Insurer and Telephone Number: \_\_\_\_\_
35. Mailing Address for Insurer/Contact Person: \_\_\_\_\_
36. City: \_\_\_\_\_ 37. State: \_\_\_\_\_ 38. Zip: \_\_\_\_\_
- Complete for Paid and Closed Claims Only
10. Amount of reserve for indemnity if still outstanding: \$ \_\_\_\_\_
11. Amount of reserve for expense if still outstanding: \$ \_\_\_\_\_
12. Plaintiff attorney's name: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
13. Describe action which caused claim to be made: \_\_\_\_\_
14. Final diagnosis: \_\_\_\_\_
15. Operation, diagnostic or treatment procedure causing the injury: \_\_\_\_\_
16. Describe principal injury giving rise to the claim: \_\_\_\_\_ Severity of injury: \_\_\_\_\_
17. Misadventures in procedures: \_\_\_\_\_ Misadventures in diagnosis: \_\_\_\_\_
18. Others contributing to injury: \_\_\_\_\_ Associated issues: \_\_\_\_\_
19. Companion claim file identification: \_\_\_\_\_
20. Date of this payment or closure: \_\_\_\_\_ Type of settlement: \_\_\_\_\_
21. Disposition of trial: \_\_\_\_\_ Binding arbitration? \_\_\_\_\_
22. Indemnity paid by you on behalf of this defendant: \$ \_\_\_\_\_
23. Other indemnity paid by or on behalf of this defendant: \$ \_\_\_\_\_
24. Indemnity paid by all parties (for all defendants): \$ \_\_\_\_\_
25. Loss adjustment expense paid to all defense counsel: \$ \_\_\_\_\_
26. All other allocated loss adjustment expense paid by you: \$ \_\_\_\_\_
27. Injured person's incurred medical expense: \$ \_\_\_\_\_
28. Injured person's anticipated future medical expense: \$ \_\_\_\_\_
29. Injured person's incurred wage loss: \$ \_\_\_\_\_
30. Injured person's anticipated wage loss: \$ \_\_\_\_\_
31. Injured person's other expense: \$ \_\_\_\_\_
- person responsible for report

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 928. EXHIBIT C Illinois Medical Liability Insurance Uniform Claims Report Instructions Information-Details

All fields are self-explanatory except as follows:

- a) (Part 928. Exhibit A, 2d) Enter original closure date if the claim is a reopened claim.
- b) (Part 928. Exhibit A, 4a) Profession or business code:  
 1) physicians and surgeons;  
 2) hospitals;  
 3) other medical professionals, but please specify the type of profession;  
 4) other health care facilities.
- c) (Part 928. Exhibit A, 4b) Specialty Code is the individual industry classification code describing specific type of practice. If industry classification codes are other than ISO, please provide a description of classification codes being filed. Once a description of all classification codes is filed, it is only necessary to file descriptions of new or changed classification codes.
- d) (Part 928. Exhibit A, 4c) Type of practice code:  
 1) institutional (academic);  
 2) professional corporation or partnership (group);  
 3) self-employed;  
 4) employed physician;  
 5) employed nurse;  
 6) all other employees;  
 7) intern or resident.
- e) (Part 928. Exhibit A, 5b) Enter Yes or No, indicating if insured physician is a foreign medical graduate.
- f) (Part 928. Exhibit A, 5c) Enter country in which primary medical education was received if other than U.S.
- g) (Part 928. Exhibit A, 6a) Enter the appropriate code for the place where the principal injury occurred:  
 1) hospital inpatient facility;  
 2) emergency room;  
 3) hospital outpatient facility;  
 4) nursing home;  
 5) physician's office;  
 6) patient's home;  
 7) other outpatient facility;  
 8) other, but please provide a description;  
 9) other hospital/institutional location.
- Note: Use only one code.
- h) (Part 928. Exhibit A, 7b) Enter appropriate code if location of institutional injury was:  
 1) patient's room;  
 2) labor or delivery room;  
 3) operating suite;  
 4) recovery room;

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- 5) critical care unit;  
 6) special procedure room;  
 7) nursery;  
 8) radiology;  
 9) physical therapy department.
- i) (Part 928. Exhibit A, 9a) Enter the total number of defendants (persons and institutions other than John Does) involved in claim.
- j) (Part 928. Exhibit A, 9b) Enter the appropriate code(s) if a derivative claim (on behalf of someone other than the medically injured) was made by:  
 1) spouse;  
 2) children;  
 3) parent;  
 4) personal representative.
- k) (Part 928. Exhibit B, 14a and 14b) Use nomenclature and/or descriptions to enter the final diagnosis for which treatment was sought or rendered (actual abnormal condition) and also the misdiagnosis, if any, of the patient's actual condition.
- l) (Part 928. Exhibit B, 15) Use nomenclature and/or descriptions of the procedure used. Include methods of anesthesia, or name of drug used for treatment, with detail of administration and type of adverse effect where applicable.
- m) (Part 928. Exhibit B, 16a) Use nomenclature and/or descriptions of the injury. Include type of adverse effect from drugs where applicable.
- n) (Part 928. Exhibit B, 16b) Enter one digit code for severity of injury from scale provided below. Enter the code for the most serious injury if several are involved.
- |                          |                                                                                     |
|--------------------------|-------------------------------------------------------------------------------------|
| Severity of Injury Scale | Examples                                                                            |
| 1) Emotional only        | Fright, no physical damage.                                                         |
| 2) Insignificant         | Lacerations, contusions, minor scars, rash.<br>No delay.                            |
| Temporary 3) Minor       | Infections, misset fracture, fall in hospital.<br>Recovery delayed.                 |
| 4) Major                 | Burns, surgical material left, drug side-effect, brain damage.<br>Recovery delayed. |

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- 5) Minor Loss of fingers, loss or damage to organs. Include non-disabling injuries.
- 6) Significant Deafness, loss of limb, loss of eye, loss of one kidney or lung.
- 7) Major Paraplegia, blindness, loss of two limbs, brain damage.
- 8) Grave Quadriplegia, severe brain damage, lifelong care or fatal prognosis.

## 9) Death

- o) (Part 928, Exhibit B, 17a) Enter the appropriate misadventure code(s) if the procedure was:

- 1) not adequately indicated;
- 2) contraindicated;
- 3) there was a more appropriate alternative;
- 4) delayed;
- 5) improperly performed;
- 6) not performed;
- 7) occasioned by misdiagnosis;
- 8) inadequate assessment;
- 9) misidentification of the patient;
- 10) delay in notifying physician;
- 11) failure to notice an improper order;
- 12) failure to obtain a proper order;
- 13) failure to instruct patient.

- p) (Part 928, Exhibit B, 17b) Enter the appropriate code if the following misadventures in diagnosis caused or aggravated the injury:

- 1) delay in diagnosis;
- 2) misdiagnosis of the abnormal condition;
- 3) misdiagnosis in the absence of an abnormal condition.

- q) (Part 928, Exhibit B, 18a) Enter the appropriate code(s) if any other person(s) caused or contributed to the injury:

- 1) attending physician;
- 2) house staff;
- 3) consultant;
- 4) nurse R.N.;
- 5) nurse L.P.N. or L.V.N.;
- 6) aide;
- 7) orderly;
- 8) pharmacist;
- 9) radiologist;

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- 10) radiology technician;
  - 11) anesthesiologist;
  - 12) anesthetist;
  - 13) pathologist;
  - 14) laboratory technician;
  - 15) physician's assistant;
  - 16) O.R. technician;
  - 17) physical therapist;
  - 18) inhalation therapist;
  - 19) other therapists;
  - 20) other technicians;
  - 21) dietitian;
  - 22) maintenance personnel;
  - 23) engineer;
  - 24) administrator;
  - 25) other personnel;
  - 26) patient;
  - 27) another patient.
- r) (Part 928, Exhibit B, 18b) Enter the appropriate code(s) if one or more of the following factors were associated issues in the claim:
- 1) abandonment;
  - 2) premature discharge from institution;
  - 3) false imprisonment;
  - 4) lack or delay of consultation;
  - 5) lack of supervision;
  - 6) breach of confidentiality;
  - 7) failure to prevent an abnormal condition;
  - 8) failure to accomplish intended result;
  - 9) failure to conform with regulation or statutory law;
  - 10) lack of adequate facilities or equipment;
  - 11) laboratory error;
  - 12) pharmacy error;
  - 13) products liability;
  - 14) failure to timely disclose;
  - 15) failure to provide warning instructions;
  - 16) lack of consent from proper person;
  - 17) inadequate information for informed consent;
  - 18) procedure exceeded consensual understanding;
  - 19) breach of contract;
  - 20) warranty;
  - 21) assault and battery;
  - 22) res ipsa loquitur;
  - 23) emergency equipment;
  - 24) cooling devices;
  - 25) heating devices;
  - 26) cautery equipment;
  - 27) x-ray equipment;
  - 28) radiation therapy equipment;



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- 29) traction equipment;
- 30) anesthesia equipment;
- 31) operative equipment;
- 32) surgical instruments & materials;
- 33) food preparation equipment;
- 34) laboratory equipment;
- 35) laboratory mislabeling;
- 36) laboratory computation error;
- 37) inadequate laboratory specimen;
- 38) lost laboratory specimen;
- 39) laboratory interpretation;
- 40) laboratory reporting error;
- 41) laboratory delay in reporting;
- 42) sterilization of equipment;
- 43) skin preparation;
- 44) aseptic technique;
- 45) isolation for infection control;
- 46) records;
- 47) billing and collection;
- 48) inter-professional relations;
- 49) vicarious liability;
- 50) statute of limitations;
- 51) punitive damages.

s) (Part 928.Exhibit B, 18c) Enter the appropriate coverage code for the type of policy covering the claim:

- 1) claims made-basic (policy covers all claims made during the term of the policy);
- 2) claims made-tail (policy covers all claims made during the policy term for events which occurred during a designated previous policy term);
- 3) occurrence (policy covers all claims whenever presented for events which occur during the policy term).

t) (Part 928.Exhibit B, 20b) Enter final method of claim disposition:

- 1) settled by parties;
- 2) disposed of by a court;
- 3) disposed of by binding arbitration.

u) (Part 928.Exhibit B, 20c) If settlement by agreement of the parties, enter the appropriate settlement code:

- 1) before filing suit or demanding hearing;
- 2) before trial or hearing;
- 3) during trial or hearing;
- 4) after trial or hearing, but before judgment or decision (award);
- 5) after judgment or decision, but before appeal;
- 6) during appeal;
- 7) after appeal;
- 8) claim or suit abandoned;
- 9) during review panel or non-binding arbitration.

v) (Part 928.Exhibit B, 21a) Enter the appropriate court disposition

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code:

- 0) no court proceedings;
- 1) directed verdict for plaintiff;
- 2) directed verdict for defendant;
- 3) judgment notwithstanding the verdict (plaintiff);
- 4) judgment notwithstanding the verdict (defendant);
- 5) judgment for the plaintiff;
- 6) judgment for the defendant;
- 7) decision for plaintiff on appeal;
- 8) decision for defendant on appeal;
- 9) all other.

w) (Part 928.Exhibit B, 21b) Enter appropriate binding arbitration code:

- 0) claim not subject to arbitration;
- 1) claim subject to arbitration, but previously coded disposition reached in lieu of award;
- 2) award for plaintiff;
- 3) award for defendant.

x) (Part 928.Exhibit B, 21c) If a review panel or non-binding arbitration was used in disposition, enter appropriate code:

- 1) finding for plaintiff;
- 2) finding for defendant.

y) (Part 928. Exhibit B, 23) Mark appropriate box if this amount was a deductible paid by the insured or indemnity paid under an excess limits policy by another insurer.

z) (Part 928.Exhibit B, 25) Enter fees paid to defense counsel for this defendant.

aa) (Part 928.Exhibit B, 26) Enter filing fees, telephone charges, photocopy fees, expenses of defense counsel, etc.

bb) (Part 928.Exhibit B, 28) Enter best estimate of future medical expense if it appears the claimant will incur expenses in the future.

cc) (Part 928.Exhibit B, 30) Enter best estimate of future wage loss if it appears the claimant will incur wage loss in the future.

dd) (Part 928.Exhibit B, 32) If a reserve, annuity, trust fund or similar mechanism was established to provide future periodic payments, enter total amount thereof.

All fields are self-explanatory except as follows: leave code field blank where any of the following entries are not applicable or have been previously reported: Record all amounts in whole dollars only, all dates as MM-YY-and-ai ages (on date of occurrence) as YY.  
2: Date of injury, report and reopening: Enter two digits each for month and year of occurrence and registration of incident as a claim (in the event of written notice of occurrence but no claim, leave report date blank). Enter date in field provided on reopened cases.  
4: Professional or business code: 1) physicians and surgeons; 2) hospitals; 3) other medical professionals; 4) other health care facilities; When 3 is entered, specify type of professional in addition: Enter specialty code (five digits) from 190 Common Statistical Base classifications. Enter type of practice code: 1) institutional; 2) professional corporation or partnership; 3)

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self-employed-4)-employed-physician-5)-employed-nurse-6)-all-other-employees-  
5)-indicate-yes-or-no-if-an-insured-physician-is-board-certified-and/or-a  
foreign-medical-graduate-Enter-country-in-which-primary-medical-education-was  
received-if-other-than-the-U.S.-  
6)-Enter-the-appropriate-code-if-the-place-where-the-injury-occurred-was-in-  
1)-hospital-2)-emergency-room-3)-out-patient-facility-4)-nursing-home-5)-office  
6)-patient's-home-  
9)-Enter-the-total-number-of-defendants-(persons-and-institutions-other-than  
John-Doe)-involved-in-claim-Enter-the-appropriate-code-if-a-derivative-claim  
(on-behalf-of-someone-other-than-the-medically-injured)-was-made-by--1)-spouse  
2)-children-3)-parent-4)-personal-representative-  
14)-Use nomenclature and/or descriptions-for-the-final-diagnosis-(actual  
abnormal-condition)-procedures-and-injury--include-methods-of-anesthesia-or  
name-of-drug-used-for-treatment-with-detail-of-administration-and-type-of  
adverse-effect-where-applicable-  
16)-Enter-one-digit-code-for-severity-of-injury-from-scale-provided-below-  
17)-Enter-the-appropriate-misadventure-code-if-the-procedure-was--1)-not  
adequately-indicated--2)-contraindicated--3)-there-was-a-more-appropriate  
alternative--4)-delayed-5)-improperly-performed-7)-occasional-by-misdiagnosis-  
Enter-the-appropriate-code-if-the-following-misadventures-in-diagnosis-caused  
or-aggravated-the-injury--1)-delay-in-diagnosis--2)-misdiagnosis-of-the  
abnormal-condition-3)-misdiagnosis-in-the-absence-of-an-abnormal-condition-  
18)-Enter-the-appropriate-code(s)-if-any-other-person(s)-caused-or-contributed  
to-the-injury--1)-attending-physician-2)-house-staff-3)-consultant-4)-nurse  
R-N-5)-nurse-B-P-M-or-B-V-N-6)-aide-7)-orderly-8)-pharmacist-9)-radiologist  
10)-radiology-technician-11)-anesthesiologist-12)-anesthetist-13)-pathologist  
14)-laboratory-technician-15)-physician's-assistant-16)-O.R.-technician-17)-  
physical-therapist-18)-inhalation-therapist-19)-other-therapists-20)-other  
technicians--21)-dietitian--22)-maintenance-personnel-23)-engineer-24)-  
administrator-25)-other-personnel-26)-patient-  
18)-Enter-the-appropriate-code(s)-if-one-or-more-of-the-following-factors-were  
associated-issued-in-the-claim--1)-abandonment-2)-premature-discharge-from  
institution-3)-false-imprisonment-4)-lack-of-delay-of-consultation-5)-lack-of  
supervision-6)-breach-of-confidence-7)-failure-to-prevent-an-abnormal  
condition-8)-failure-to-accomplish-intended-result-9)-failure-to-conform-with  
regulation-or-statutory-rule-10)-lack-of-adequate-facilities-or-equipment-11)-  
laboratory-error-12)-pharmacy-error-13)-products-liability-14)-failure-to  
timely-disclose-15)-failure-to-provide-warning-instructions-16)-lack-of-consent  
from--proper--person-17)-inadequate-information-for--informed--consent-18)-  
procedure--exceeded--consensual--understanding-19)-breach-of--contract--20)-  
warranty-  
18)-Coverage-code--1)-claims-made-basis-2)-claims-made-tail-3)-occurrence-  
20)-Enter-the-appropriate-type-settlement-code--1)-before-trial-2)-during  
trial-3)-after-trial-but-before-verdict-4)-after--judgment--5)-claim-or-suit  
abandoned-by-plaintiff-6)-by-review-panel-  
21)-Enter-the-appropriate-trial-disposition-code--1)-directed-verdict-for  
plaintiff-2)-directed-verdict-for-defendant-3)-judgment-notwithstanding-the  
verdict-for-the-plaintiff-4)-judgment-notwithstanding-the-verdict-for-the

DEPARTMENT OF INSURANCE  
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defendant-5)-judgment-for-the-plaintiff-6)-judgment-for-the-defendant-7)-  
mistrial-8)-non-suit-9)-all-other--indicate-yes-or-no-if-the-claim-disposition  
was-by-binding-arbitration-  
Severity-of-Injury-Scale  
Examples  
1)-Emotional-only P fright-no-physical-damage  
2)-Insignificant lacerations-contusions-minor-scars-rash-  
No-delay-  
infections-missed-fracture-fall-in-  
hospital-  
Recovery-delayed  
Burns-Surgical-material-left-drug  
side-effect-brain-damage-  
Recovery-delayed-  
3)-Minor  
4)-Major  
5)-Minor  
loss-of-fingers-loss-or-damage-to-organs-  
Include  
non-disabling  
injuries-  
Permanent  
6)-Significant  
Deafness-loss-of-limb-loss-of-eye-loss-of  
one-kidney-or-lung-  
7)-Major  
Paraplegia-blindness-loss-of-two-limbs-  
brain-damage-  
8)-Grave  
Quadraplegia-severe-brain-damage-lifelong  
care-or-fate-  
9)-Death  
(Source: Amended at 24 Ill. Reg. 19149, effective

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- 1) Heading of the Part: Minimum Standards for Individual and Group Medicare Supplement Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2008
- 3) Section Number: 2008.75  
Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/363, 363a and 401].
- 5) Effective Date of Amendments: January 1, 2001
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 21, 2000, 24 Ill. Reg. 10576

- 10) Has JCAR issued a Statement of Objections to this amendment? No

- 11) Differences between proposal and final version: None

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will this amendment replace an emergency rulemaking currently in effect?  
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of rulemaking: The changes in 50 Ill. Adm. Code Part 2008.75 have come about due to some Medicare HMOs withdrawing from the marketplace. Insureds who wanted some type of coverage to continue were left with different options. Those who had been covered by Medicare supplement coverage but switched to HMO coverage during the previous 12 months were allowed to return to that coverage as long as the company was still offering the coverage or select Plan A, B, C or F. The NAIC model and this Part indicated that these were the options when the insured voluntarily disenrolled, but when they involuntarily were disenrolled, there was no guarantee that they could return to their previous Medicare supplement policy. Therefore, we are amending Part 2008.75 so that those individuals will be able to obtain Medicare supplement coverage if this

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- 16) Information and questions regarding this adopted amendment shall be directed to:  
happens in the future.

Linda Fritz  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 785-7350

The full text of the adopted amendments begins on the next page:



DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE

PART 2008  
MINIMUM STANDARDS FOR INDIVIDUAL  
AND GROUP MEDICARE SUPPLEMENT INSURANCE

Section	Authority
2008.10	Purpose
2008.20	Applicability and Scope
2008.30	Definitions
2008.40	Creditable Coverage
2008.45	Policy Definitions and Terms
2008.50	Policy Provisions
2008.60	Benefit Conversion Requirements During Transition (Repealed)
2008.70	Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to the Effective Date of this Part
2008.71	Benefit Standards for Policies or Certificates Issued or Delivered on or After the Effective Date of this Part
2008.72	Standard Medicare Supplement Benefit Plans
2008.73	Medicare Select Policies and Certificates
2008.74	Open Enrollment
2008.75	Guaranteed Issue for Eligible Persons
2008.76	Standards for Claims Payment
2008.80	Loss Ratio Standards and Refund or Credit of Premium
2008.81	Filing and Approval of Policies and Certificates and Premium Rates
2008.82	Permitted Compensation Arrangements
2008.90	Required Disclosure Provisions
2008.91	Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare
2008.100	Requirements for Application Forms and Replacement Coverage
2008.101	Standards for Marketing
2008.102	Appropriateness of Recommended Purchase and Excessive Insurance
2008.103	Reporting of Multiple Policies
2008.104	Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates
2008.110	Saverability
2008.120	Effective Date (Repealed)

APPENDIX A	Policy Checklist
APPENDIX B	Outline of Medicare Supplement Coverage-Cover Page
APPENDIX C	Plan A
APPENDIX D	Plan B
APPENDIX E	Plan C

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APPENDIX F	Plan D
APPENDIX G	Plan E
APPENDIX H	Plan F or High Deductible Plan F*
APPENDIX I	Plan G
APPENDIX J	Plan H
APPENDIX K	Plan I
APPENDIX L	Plan J or High Deductible Plan J*
APPENDIX M	Notice to Applicant Regarding Replacement of Accident and Sickness Insurance
APPENDIX N	Medicare Supplement Refund Calculation Format
APPENDIX O	Notice of Medicare Changes
APPENDIX P	Medicare Supplement Policies Report
APPENDIX Q	Disclosure Statements

AUTHORITY: Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/363, 363a and 401].

SOURCE: Adopted at 6 Ill. Reg. 7115, effective June 1, 1982 and January 1, 1983; codified at 7 Ill. Reg. 3474; emergency amendment at 13 Ill. Reg. 586, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 8520, effective May 23, 1989; amended at 14 Ill. Reg. 19243, effective November 27, 1990; amended at 16 Ill. Reg. 2766, effective February 11, 1992; corrected at 16 Ill. Reg. 3590; amended at 16 Ill. Reg. 15452, effective September 29, 1992; emergency amendment at 16 Ill. Reg. 19226, effective December 1, 1992, for a maximum of 150 days; emergency expired April 29, 1993; amended at 17 Ill. Reg. 11469, effective July 9, 1993; amended at 20 Ill. Reg. 6393, effective April 28, 1996; amended at 23 Ill. Reg. 3704, effective March 10, 1999; amended at 23 Ill. Reg. 14700, effective January 1, 2000; amended at 24 Ill. Reg. 10053, effective 1998.

Section 2008.75 Guaranteed Issue for Eligible Persons

Pursuant to Section 1851(g) of the federal Social Security Act (P.L. 105-33) all Medicare supplement insurance policies shall be guaranteed issue to eligible persons who meet the requirements of this Section effective July 1, 1998.

a) Guaranteed Issue

- 1) Eligible persons are those individuals described in subsection (b) of this Section who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subsection (b) of this Section, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.
- 2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate described in subsection (c) of this Section that is offered and is available for issuance to new enrollees by the issuer; shall not discriminate in the pricing of

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such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

- b) Eligible person is an individual described in any of the following subsections:

1) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;

2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any of the following circumstances apply:

A) The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

C) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

i) The organization offering the plan substantially violated a material provision of the organization's contract in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

D) The individual meets such other exceptional conditions as the Secretary may provide;

3) The individual's enrollment ceases under the same circumstances

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that would permit discontinuance of an individual's election of coverage under subsection (b)(2) of this Section and they enrolled under:

A) An eligible organization under a contract under Section 1876 (Medicare risk or cost);

B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

C) An organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or

D) An organization under a Medicare Select policy;

4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization;

B) Of other involuntary termination of coverage or enrollment under the policy;

C) The issuer of the policy substantially violated a material provision of the policy; or

D) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

5) The individual was enrolled under a Medicare supplement policy and terminates terminated enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and the subsequent enrollment is voluntarily or involuntarily terminated by the enrollee during any period within the first 12 months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(f) of the federal Social Security Act); or

6) The individual, upon first enrolling under Part B of Medicare at age 65 or older, enrolls in a Medicare+Choice plan under Part C of Medicare, and voluntarily or involuntarily disenrolls from the plan by not later than 12 months after the effective date of enrollment.

c) Products to Which Eligible Persons are Entitled

The Medicare supplement policy to which eligible persons are entitled under:

1) Subsection (b)(1), (2), (3), and (4) of this Section is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

2) Subsection (b)(5) of this Section is the same Medicare supplement policy in which the individual was most recently previously

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enrolled, if available from the same issuer, or, if not available, a policy described in subsection (c)(1) of this Section.

- 3) Subsection (b)(6) of this Section shall include any Medicare supplement policy offered by any issuer.

d) Notification provisions

- 1) At the time of an event described in subsection (b) of this Section, because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under subsection (a) of this Section. Such notice shall be communicated contemporaneously with the notification of termination.

- 2) At the time of an event described in subsection (b) of this Section, because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this Section, and of the obligations of issuers of Medicare supplement policies under subsection (a) of this Section. Such notice shall be communicated within 10 working days after the issuer receives notification of disenrollment.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Privacy of Personal Information
- 2) Code Citation: 50 Ill. Adm. Code 4001
- 3) Section Number:  
4001.10 New Section  
4001.20 New Section  
4001.30 New Section  
4001.40 New Section  
4001.50 New Section
- 4) Statutory Authority: Implementing Article XL of the Illinois Insurance Code [215 ILCS 5/1001 through 1024] and Title V of the Gramm-Leach-Bliley Act [15 USC 6801 through 6827] and authorized by Section 401 and Article XL of the Illinois Insurance Code [215 ILCS 5/401 and Art. XL].
- 5) Effective Date of Rules: December 19, 2000
- 6) Does this Rule contain an automatic repeal date? No
- 7) Does this Rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 22, 2000, 24 Ill. Reg. 14137
- 10) Has JCAR issued a Statement of Objections to this Rule? No
- 11) Differences between proposal and final version:
  - a) In the main source note, add "emergency rules modified at 24 Ill. Reg. 16133" following "days".
  - b) Section 4001.20, on the third line add "or any other Act of Chapter 215 of the Illinois compelled Statutes" following "Code".
  - c) Section 4001.30, delete the definition of "Code".
  - d) Section 4001.30, in the definition of "Licensee", on the third line add "or any other Act of Chapter 215 of the Illinois Compiled Statutes" following "Code".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes



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- 13) Will this Rule replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: Implementing Article XL of the Illinois Insurance Code [215 ILCS 5/1001] and Title V of the Gramm-Leach-Bliley Act governing the treatment of personal financial information by the licensees of the Illinois Department of Insurance in relation to the compliance date.
- 16) Information and questions regarding this adopted Rule shall be directed to:

Chuck Feinen  
Staff Attorney  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 782-2867

The full text of the adopted rules begins on the next page:

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER tt: INSURANCE INFORMATION AND PRIVACY PROTECTION

PART 4001  
PRIVACY OF PERSONAL INFORMATION

Section	Purpose
4001.10	Applicability
4001.20	Definitions
4001.30	Enforcement
4001.40	Effective Date

AUTHORITY: Implementing Article XL of the Illinois Insurance Code [215 ILCS 5/Art. XL] and Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) and authorized by Section 401 and Article XL of the Illinois Insurance Code [215 ILCS 5/401 and Art. XL].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 12137, effective July 31, 2000, for a maximum of 150 days; emergency rules modified at 24 Ill. Reg. 16133; adopted at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 4001.10 Purpose

This Part will implement Article XL of the Illinois Insurance Code [215 ILCS 5/Art. XL] and Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) which govern the treatment of personal information about individuals by all licensees of the Illinois Department of Insurance.

Section 4001.20 Applicability

This Part applies to all insurers, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code or any other Act of Chapter 215 of the Illinois Compiled Statutes. This Part also applies to unauthorized insurers who accept business placed through a licensed surplus line producer in this State, but only in regard to the surplus line placements placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445].

Section 4001.30 Definitions

Director means the Director of the Illinois Department of Insurance.

Licensee means all insurers, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized,

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or registered or required to be registered, or domiciled pursuant to the Illinois Insurance Code or any other Act of Chapter 215 of the Illinois Compiled Statutes. Licensee shall also include unauthorized insurers who accept business placed through a licensed surplus line producer in this State, but only in regard to the surplus line placements placed pursuant to Section 445 of the Illinois Insurance Code [215 ILCS 5/445].

Section 4001.40 Enforcement

This Part, Article XL of the Code [215 ILCS 5/Art. XL], and Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) shall be enforced by the Director with respect to all licensees.

Section 4001.50 Effective Date

This Part is effective immediately upon filing. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827), effective November 13, 2000, and the provisions of this Part, the Director has extended the time for compliance with Title V of the Gramm-Leach-Bliley Act (15 USC 6801 through 6827) and this Part until July 1, 2001.

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- 1) Heading of the Part: Small Employer Carrier Actuarial Certification and Documentation Requirements
- 2) Code Citation: 50 Ill. Adm. Code 5101
- 3) Section Number:  
5101.10 New Section  
5101.20 New Section  
5101.30 New Section  
5101.40 New Section  
5101.50 New Section  
5101.60 New Section  
Illustration A New Section  
Illustration B New Section
- 4) Statutory Authority: Implementing Sections 30(b) and 40 of the Small Employer Health Insurance Rating Act [215 ILCS 93/30(b) and 40].
- 5) Effective Date of Rules: December 19, 2000
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 1, 2000, 24 Ill. Reg. 13139
- 10) Has JCAR issued a Statement of Objections to these Rules? No
- 11) Differences between proposal and final version:
  - a) Deleted in Section 5101.60(f), "as well as Company Bulletins issued by the Director of Insurance".
  - b) Deleted in Section 5101.60(k) "(ASOP)" and added after "Nos. 23", "Data Quality," added after " ", Compliance with Statutory and Regulatory Requirements for the Actuarial Certification of Small Employers Health Benefits, (1100 Seventeenth Street, N.W., 7th Floor, Washington, D.C. 20036)94; added after "and", "all applicable laws"; and deleted "relevant Company Bulletins issued by the Director of Insurance".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will these rules replace emergency rules currently in effect? No
- 14) Are there any rules pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of this Part is to set standards for the filing and contents of a small employer carrier actuarial certification required pursuant to Section 30(b) of the Small Employer Health Insurance Rating Act [215 ILCS 93/30(b)].
- 16) Information and questions regarding the adopted rules shall be directed to:

Chuck Feinen  
Staff Attorney  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 557-1396

The full text of the adopted rules begins on the next page:

DEPARTMENT OF INSURANCE  
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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER hhh: SMALL EMPLOYER HEALTH INSURANCE RATING ACT

PART 5101  
SMALL EMPLOYER CARRIER ACTUARIAL CERTIFICATION AND DOCUMENTATION REQUIREMENTS

Section

5101.10 Purpose  
5101.20 Applicability and Scope  
5101.30 Definitions  
5101.40 Pre-approval of an Individual Who is Not a Member of the American Academy of Actuaries for the purpose of filing an Actuarial Certification

5101.50 Small Employer Carrier Rating and Underwriting Record Maintenance  
5101.60 Actuarial Certification and Format

ILLUSTRATION A Actuarial Certification  
ILLUSTRATION B Statement of the Company Officer

AUTHORITY: Implementing and authorized by Sections 30(b) and 40 of the Small Employer Health Insurance Rating Act [215 ILCS 93/30(b) and 40].

SOURCE: Adopted at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 5101.10 Purpose

The purpose of this Part is to set standards for the filing and contents of a small employer carrier actuarial certification pursuant to Section 30(b) of the Small Employer Health Insurance Rating Act [215 ILCS 93/30(b)].

Section 5101.20 Applicability and Scope

This Part shall apply to each health benefit plan for a small employer that is delivered, issued for delivery, renewed or continued in this State after July 1, 2000 that is required to file an annual actuarial certification. For purposes of this Part, the date a plan is continued shall be the first rating period which commences after July 1, 2000.

Section 5101.30 Definitions

Act means the Small Employer Health Insurance Rating Act [215 ILCS 93].

Actuarial Certification means a written statement that the small employer carrier meets the applicable provisions of the Act and this



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Part by a member of the American Academy of Actuaries or other pre-approved individual acceptable to the Director.

Director means the Director of the Illinois Department of Insurance.

Health Benefit Plan or Plan means any hospital or medical expense-incurred policy, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health benefit plan shall not include individual, accident-only, credit, dental, vision, Medicare supplement, hospital indemnity, long term care, specific disease, stop loss or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

Review of Appropriate Records means a review conducted in accordance with the Actuarial Standards Board document entitled Actuarial Standards of Practice No. 23 which addresses the Data Quality issue and gives guidance on what level of review would be required in a review of appropriate records.

Small Employer means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

Small Employer Carrier means a carrier that offers health benefit plans covering employees of one or more small employers in this State.

#### Section 5101.40 Pre-approval of an Individual Who is Not a Member of the American Academy of Actuaries for the purpose of filing an Actuarial Certification

The Director may deem an individual who is not a member of the American Academy of Actuaries acceptable for actuarial certification, pursuant to Section 30(b) of the Act and Section 5101.60 of this Part, if the small employer demonstrates through the filing of documentation and information that the individual has the appropriate experience and educational background. Such information shall be mailed to the address provided in Section 5101.60(1) of this Part and may include, but is not limited to, the following:

- a) Educational degrees or other certifications;
- b) Work experience; and
- c) References.

#### Section 5101.50 Small Employer Carrier Rating and Underwriting Record Maintenance

A small employer carrier shall maintain and have accessible at its principal

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place of business for a period of 3 years from the date of actuarial certification the following records and information:

- a) A complete and detailed description of its rating practices and renewal underwriting practices;
- b) Information and documentation that demonstrates that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles; and
- c) Any work papers or other information and documentation prepared in support of the actuarial certification.

#### Section 5101.60 Actuarial Certification and Format

An actuarial certification filing, an example of which is set forth in Illustration A of this Part, must contain the following information:

- a) The full legal name of the small employer carrier for which the certification is being submitted;
- b) The actuary's name, title and company affiliation, if applicable, or the individual's name, title and company affiliation that has been pre-approved pursuant to Section 5101.30 of this Part;
- c) A statement as to whether the undersigned actuary is a member of the American Academy of Actuaries and meets the Qualification Standards appropriate for this certification. If not a member, the individual must indicate when he or she was pre-approved by the Director pursuant to Section 5101.30 of this Part and include a copy of the approval;
- d) The period for which the certification is being made;
- e) If appropriate, a statement indicating on whom the actuary relied for data. The actuary may rely on company personnel for data, but may not rely on another actuarial opinion. The nature and extent of reliance must be disclosed in the statement. The extent of reliance is subject to the Actuarial Standards of Practice No. 23 on Data Quality. A sample statement to be completed by the person on whom the actuary relied is shown in Illustration B of this Part;
- f) The number of classes contained in the actuarial certification shall be the number in existence as of the end of the certification period. In the case of multiple classes, the certification must contain a list of the classes and a description of the substantial differences that support the establishment of each class. Refer to Section 20(a)(1), (2) and (3) of the Act [215 ILCS 93/20] for information concerning the allowable criteria that support the establishment of each class. This must include the criteria by which groups are assigned to each class;
- g) The actuarial certification must contain a statement that the small employer carrier's rates either were or were not in compliance with Section 25 of the Act [215 ILCS 93/25];
- h) If the actuary determines that the small employer carrier's rates and rating factors in the rating manuals did not comply with statutory requirements under subsection (g) of this Section, the certification must include a detailed description of the instances of noncompliance,

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steps taken to correct or detailed plans to correct the areas of noncompliance;

i) If the actuary determines that the small employer carrier's actual rates did not agree with the rates provided in the rating manual(s), the certification must include a detailed description of the instances of noncompliance, steps taken to correct or detailed plans to correct the areas of noncompliance;

j) The annualized premium dollar amount for small employer groups in force at the end of the certification period and the annualized premium dollar amount for groups whose actual premium rates were tested to verify that the rates charged were in accordance with the rating manuals;

k) A certification that the actuary completed the work in compliance with Actuarial Standards of Practice 23, Data Quality, and 26, Compliance with Statutory and Regulatory Requirements for the Actuarial Certification of Small Employer Health Benefits (1100 Seventeenth Street, N.W., 7th Floor, Washington, D.C. 20006), and all applicable laws.

l) The actuarial certification required by this Part must be submitted to:

Illinois Department of Insurance  
Life Actuarial Section  
320 West Washington Street  
Springfield, Illinois 62767-0001

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Section 5101. ILLUSTRATION A Actuarial Certification

The following illustrates an acceptable actuarial certification:

I, \_\_\_\_\_ (name) am an officer/employee of \_\_\_\_\_ (carrier name) OR am associated with the firm of \_\_\_\_\_ (employer name) and am a member of the American Academy of Actuaries and meet the Qualification Standards appropriate for this certification.

(or)

I, \_\_\_\_\_ (name) am an officer/employee of \_\_\_\_\_ (carrier name) OR am associated with the firm of \_\_\_\_\_ (employer name) and am not a member of the American Academy of Actuaries. I meet the definitional standards of the "Other Individual Acceptable to the Director" and have received the Director's prior approval on \_\_\_\_\_ (date) pursuant to Section 5101.30.

I am completing the small employer carrier actuarial certification for \_\_\_\_\_ (carrier name). I am familiar with the applicable statutory provisions of 215 ILCS 93 and requirements of 50 Ill. Adm. Code 5101 and the Company Bulletins issued by the Director of Insurance.

This certification is for the period from \_\_\_\_\_ through \_\_\_\_\_. I relied on listings (summaries, rate manuals, etc.) of relevant data prepared by \_\_\_\_\_ (name and title of company officer responsible for preparing the underlying records). Attached is a (are) statement(s) by the indicated company officer(s) on whom I relied.

The Carrier had \_\_\_\_\_ separate class(es) of business at the end of the certification period. (If more than one, list the classes and the substantial differences which qualified each as a separate class. For each class, list the criteria by which groups are assigned to the class.)

The Carrier had small employer group annual premium volume of \$\_\_\_\_\_ in force at the end of the certification period. I tested the rates of small employer groups whose annual premium volume totaled \$\_\_\_\_\_ to verify that the rates actually charged were in accordance with the rating manual(s).

Based upon my review, I find that the small employer carrier \_\_\_\_\_ (was or was not) in compliance with Section 25 of the Small Employer Health Insurance Rating Act [215 ILCS 93/25]. (If not in compliance, include required additional paragraph, detail of

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instances of noncompliance and a description of the small employer carrier's plan to correct the areas of noncompliance.)

In other respects, my examination included a review of the actuarial methods in order to assure that the rating methods of the small employer carrier were actuarially sound.

Actuarial methods, considerations and analysis used in forming my opinion conform to the appropriate Actuarial Standards Board's Standards of Practice (ASOP), which form the basis of the statement of opinion.

\_\_\_\_\_  
Actuary name or the pre-approved  
individual's name (typewritten)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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**Section 5101. ILLUSTRATION B Statement of the Company Officer**

The following illustrates an acceptable statement to be filed when the opining actuary or pre-approved individual has indicated reliance on data provided by company personnel:

I [name of officer], [title], of [name of carrier], hereby affirm that the listings (summaries, rate manuals, etc.) of relevant data prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Name of Officer of the Carrier (typewritten)

\_\_\_\_\_  
Signature of Officer of the Carrier

\_\_\_\_\_  
Date



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1) Heading of the Part: Access to Information

2) Code Citation: 2 Ill. Adm. Code 1400

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
1400.10	New Section
1400.20	New Section
1400.100	New Section
1400.110	New Section
1400.200	New Section
1400.210	New Section
1400.300	New Section
1400.310	New Section
1400.400	New Section
1400.410	New Section

4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

5) Effective Date of Rules: December 7, 2000

6) Does this rulemaking contain an automatic repeal by reference? No

7) Do these rules contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: Not applicable

10) Has JCAR Issued a Statement of Objection to these rules? Not applicable

11) Differences Between Proposal and Final Version: Not applicable

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Not applicable

13) Will these rules replace emergency rules currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: The rulemaking implements the Freedom of Information Act [5 ILCS 140].

16) Information and questions regarding these adopted rules shall be directed to:

William Rolando, Deputy Director  
Illinois Department of Labor  
One West Old State Capitol Plaza, Room 300  
Springfield, Illinois 62701  
(217) 782-1704 (telephone)  
(217) 782-0596 (telefax)

The full text of the adopted rules begins on the next page:

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## TITLE 2: GOVERNMENT ORGANIZATION

## SUBTITLE D: CODE DEPARTMENTS

## CHAPTER XXIX: DEPARTMENT OF LABOR

## PART 1400

## ACCESS TO INFORMATION

## SUBPART A: INTRODUCTION

## Section

1400.10 Summary and Purpose

1400.20 Definitions

## SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

## Section

1400.100 Person To Whom Requests Are Submitted

1400.110 Form and Content of Requests

## SUBPART C: PROCEDURES FOR DEPARTMENT RESPONSE

## TO REQUESTS FOR PUBLIC RECORDS

## Section

1400.200 Timeline for Department Response

1400.210 Types of Department Responses

## SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

## Section

1400.300 Appeal of a Denial

1400.310 Director's Response to Appeal

## SUBPART E: PROCEDURES FOR PROVIDING PUBLIC

## RECORDS TO REQUESTORS

## Section

1400.400 Inspection of Records at Department Offices

1400.410 Copies of Public Records; Copy Fees

AUTHORITY: Implementing and authorized by the Freedom of Information Act [ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 24 Ill. Reg. 1307.2, effective December 7, 2000.

## SUBPART A: INTRODUCTION

## Section 1400.10 Summary and Purpose

a) This Part is established to implement the provisions of the Freedom of Information Act [5 ILCS 140]. The purpose of this Part is to support the policy of providing public access to public records in the possession of the Department of Labor while protecting legitimate privacy interests and maintaining administrative efficiency.

b) This Part establishes a procedure to be followed by the public when requesting public records of the Department of Labor. This Part also sets forth the procedures to be followed by the Department in responding to requests for information.

## Section 1400.20 Definitions

Terms used in this Part shall have the same meaning as in the Freedom of Information Act. The following definitions are applicable for purposes of this Part:

"Department" means the Department of Labor.

"Director" means the Director of the Department of Labor.

"FOIA" means the Freedom of Information Act.

"Freedom of Information Officer" or "FOI Officer" means an individual responsible for receiving and responding to requests for public records.

"Requestor" means a person who submits a request for public records in accordance with this Part.

"Working days" means calendar days other than Saturdays, Sundays and legal holidays.

## SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

## Section 1400.100 Person To Whom Requests Are Submitted

Requests for public records shall be submitted to the Department's Freedom of Information Officer by mail to the Department's Chicago office.

## Section 1400.110 Form and Content of Requests

a) All requests for public records submitted to the Department under the FOIA shall be in writing, signed by the requestor and prominently marked "FOIA Request" on both the letter and the envelope.

b) The requestor shall include the following information in any request for public records:

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- 1) The requestor's full name, mailing address and telephone number, including area code, at which the requestor can be reached during normal business hours.
- 2) A specific description of the public records sought.
- 3) Whether the request is for inspection of public records, copies of public records, or both.

SUBPART C: PROCEDURES FOR DEPARTMENT RESPONSE  
TO REQUESTS FOR PUBLIC RECORDS

**Section 1400.200 Timeline for Department Response**

- a) The Department shall respond to a written request for public records within 7 working days after the receipt of such request by the Freedom of Information Officer.
- b) In the event that the Department cannot respond to the request for public records within 7 working days for one of the reasons provided in Section 3(d) of the FOIA [5 ILCS 140/3(d)], the Department shall have an additional 7 working days in which to respond. The Department shall give the requestor notice of the extension of time. Such notice of extension shall set forth the reasons why the extension is necessary.

**Section 1400.210 Types of Department Responses**

- a) The Department shall respond to a request for public records in one of three ways:
  - 1) Approve the request.
  - 2) Approve in part and deny in part.
  - 3) Deny the request.
- b) When a request for public records has been approved, the Department shall give notice that the requested material will be made available upon receipt of payment from the requestor for reproduction costs or give notice of the time and place for inspection of the requested material.
- c) Requests for public records shall be denied only for the reasons stated in either Section 3(f) or Section 7 of the FOIA [5 ILCS 140/3 and 7]. A denial of a request shall be made in writing and shall provide the reasons for the denial, the names and titles of individuals responsible for the decision to deny the request, and a statement that the requestor may appeal the denial to the Director of the Department of Labor.
- d) Categorical requests creating an undue burden upon the Department shall be denied only after extending to the requestor an opportunity to narrow the request to manageable proportions in accordance with Section 3(f) of the FOIA [5 ILCS 140/3(f)].
- e) Failure to respond to a written request within 7 working days may be considered by the requestor as a denial of the request. Such a denial

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may be appealed to the Director in accordance with Subpart D of this Part.

## SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

**Section 1400.300 Appeal of a Denial**

- a) A requestor whose request for public records has been denied by the Freedom of Information Officer may appeal the denial to the Director of the Department. The notice of appeal shall be made in writing and addressed to the Director at the Department's Chicago office. The appeal shall be prominently marked "FOIA Appeal" on both the letter and the envelope.
- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor or a statement that the Department failed to respond to the requestor within 7 working days, and a written statement setting forth the reasons why the requestor believes the appeal should be granted as a matter of law or fact.

**Section 1400.310 Director's Response to Appeal**

The Director shall respond to an appeal within 7 working days after receiving the notice of appeal. The Director shall either affirm the denial or provide access to the requested public records. Failure of the Director to respond within 7 working days may be considered by the requestor as a denial. The Director's response shall state the requestor's right to judicial review of the decision pursuant to Section 11 of the FOIA [5 ILCS 140/11].

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC  
RECORDS TO REQUESTORS

**Section 1400.400 Inspection of Records at Department Offices**

- a) Public records will be made available for inspection at the Department's Chicago and Springfield offices between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except State holidays.
- b) Files shall be reviewed and exempt or confidential information shall be deleted by the FOI Officer or their designee before a requestor is permitted access to the records.
- c) The requestor shall arrange a time and place with the Department to review records.
- d) Documents that the requestor wishes to have copied shall be segregated during the course of the inspection. All copying will be done by Department employees.
- e) A requestor shall not be permitted to take a brief case, folder or other similar materials or pens into the room in which the inspection will take place. A requestor will be permitted to take pencil and paper into the room while inspecting public records.



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- f) An employee of the Department may be present throughout the inspection.
- g) The requestor may not remove records from the Department offices except those copies produced and paid for (if applicable per Section 410 of this Part) during the requestor's inspection of the files.

**Section 1400.410 Copies of Public Records; Copy Fees**

- a) Copies of public records shall be provided to the requestor only upon payment of any fees which are due.
- b) Fees for copies of public records on letter or legal size paper shall be calculated at the rate of 30 cents per page.
- c) Fees for certification of public records shall be \$2.00 per certification.
- d) Fees for document reproduction requests that require creation of computer programs and computer generated records, or copying of microfilm or electronically imaged information, shall be based on the actual costs incurred by the Department.
- e) Fees for reproducing records in a form not listed in this Section (e.g. computer tapes, printouts, video tapes, maps and blueprints) will be based on the actual costs incurred by the Department.
- f) There shall be no fee charged for inspection of records or the Department's costs in searching and reviewing records.
- g) Payment shall be remitted by check or money order made payable to the Department of Labor and shall be sent to the Freedom of Information Officer.
- h) Fees shall be waived if the total charge for copies of the public records is less than \$10.00, or if the request is in the public interest as defined in Section 6 of the FOIA.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Disabled Hunting Method Authorizations
- 2) Code Citation: 17 Ill. Adm. Code 760
- 3) Section Numbers: 760.20  
760.30  
Adopted Action:  
Amendments
- 4) Statutory Authority: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].
- 5) Effective Date of Amendments: December 18, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 15, 2000, 24 Ill. Reg. 13814
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 760.30(e)(1), language being added was changed to read:  
  
Holders of Standing Vehicle Permits, who are in the field legally hunting pheasant, quail, Hungarian partridge or rabbit, shall be permitted to carry a loaded and uncased shotgun in or on a vehicle or conveyance in accordance with the provisions of 17 Ill. Adm. Code 530.10(b).

In Section 760.20.(b) language being added was changed to read:

Any applicant with a permanent physical disability who, after taking the standard tests described in subsections (a)(3) and (a)(4), fails to qualify for a crossbow permit may file a supplemental application with the Department for further consideration and review. The nature of the applicant's disability and how it renders the applicant unable to use a conventional bow and arrow device must be thoroughly explained on the supplemental application by the physician. The supplemental application shall be forwarded to a physician, selected by the Department, who is board certified in occupational and preventive medicine. The Department's physician will then notify the Department as to whether the applicant should be issued a crossbow

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF ADOPTED AMENDMENTS

permit.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect?  
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to clarify the Crossbow Permit Application process by stating that applicants are required to take the standardized tests and to change the Standing Vehicle Permit requirements to allow permit holders to carry a loaded, uncased shotgun in/on a vehicle or conveyance while legally hunting upland game species in accordance with the provisions of 17 Ill. Adm. Code 530 - Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price  
Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield IL 62701-1787  
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFE

PART 760  
DISABLED HUNTING METHOD AUTHORIZATIONS

Section	
760.10	Issuance of Permits
760.20	Crossbow Permits
760.30	Standing Vehicle Permits
760.40	Rejection of Application/Revocation of Permits

AUTHORITY: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

SOURCE: Adopted at 24 Ill. Reg. 4950, effective March 13, 2000; amended at 24 Ill. Reg. 13378, effective 11/1/00.

Section 760.20 Crossbow Permits

a) Eligibility

After proper application, the Department may issue a permit to hunt with a crossbow to those persons who have a permanent physical impairment due to injury or disease, congenital or acquired, that renders them so severely disabled as to be unable to use a conventional bow and arrow device. A person who meets any of the following automatically qualifies for a crossbow permit:

- 1) Has an amputation or other loss of one or more arms.
- 2) Has an amputation or other loss of the index and middle finger on the draw and release hand.
- 3) Has a permanent substantial loss of function in one or both arms or one or both hands and fails to meet the minimum standards of any one of the following standard tests, administered under the direction of a licensed physician:
  - A) Upper extremity pinch.
  - B) Grip.
  - C) Nine-hole peg.
- 4) Has a permanent substantial loss of function in one or both shoulders and fails to meet the minimum standards of the standard shoulder strength tests, administered under the direction of a licensed physician.

- b) Any applicant with a permanent physical disability who, after taking the standard tests described in subsections (a)(3) and (a)(4), fails to qualify for a crossbow permit may file a supplemental application with the Department for further consideration and review. The nature of the applicant's disability and how it renders the applicant unable to use a conventional bow and arrow device must be thoroughly

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explained on the supplemental application by the physician. The supplemental application shall be forwarded to a physician, selected by the Department, who is board certified in occupational and preventive medicine. The Department's physician will then notify the Department as to whether the applicant should be issued a crossbow permit. ~~Any other permanent physical disability that renders the applicant unable to use a conventional bow and arrow device must be thoroughly explained on the application by the physician.~~

c) Permits issued under this Section shall be valid for a period of 3 years from the date of issuance specified on the permit.

d) Loss of the crossbow hunting permit shall require the holder to reapply.

e) Reapplication will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to use a conventional bow and arrow device.

f) Crossbow Equipment Requirements

Crossbows used in hunting as authorized by a permit issued under this Section shall meet all of the following specifications:

1) Shall have a minimum peak draw weight of 125 pounds and a maximum peak draw weight of 200 pounds.

2) Shall have a minimum limb width of 24 inches and a minimum overall length (from butt of stock to front of limbs) of 24 inches.

3) Shall have a working safety.

4) Shall be used with bolts or arrows of not less than 14 inches in length (not including point) with a broadhead. Broadheads may have fixed or expandable blades, but they must be barbed and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blade must be metal or flint-, chert-, or obsidian-tipped; broadheads with expandable blades must be metal. In accordance with 17 Ill. Adm. Code 530, flu flu arrows must be used on State owned and managed hunting areas for the taking of upland game.

g) Crossbow Hunting Rules

1) Crossbow permit holders are authorized to take game species during the seasons open to their taking by the use of archery devices. Season dates, hours, daily limits, possession limits, and all other requirements of law apply.

2) The issuance of a crossbow permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.

3) The crossbow permit must be carried by the hunter while exercising this privilege and must be presented to any law enforcement authority upon request.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

## Section 760.30 Standing Vehicle Permits

a) Eligibility

1) Class A - Permanent Disability

After proper application, the Department may issue a Class A permit to shoot from a standing vehicle to persons physically unable to walk due to a permanent disability.

2) Class B - Temporary Disability

After proper application, the Department may issue a Class B permit to shoot from a standing vehicle to persons physically unable to walk due to a temporary disability. The licensed physician completing the medical portion of the application must provide an approximation of how long it will be before the applicant has sufficiently recovered to the point that he/she is no longer physically unable to walk.

3) For the purposes of this Section, "physically unable to walk" shall mean that the applicant is incapable of walking more than 2 steps (4 feet).

b) Class A permits issued under this Section shall be valid for a period of 3 years from the date of issuance as specified on the permit. Class B permits issued under this Section shall be valid for a period of not more than 90 days from the date of issuance as specified on the permit.

c) Loss of the standing vehicle hunting permit shall require the holder to reapply.

d) Reapplication for a Class A permit will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to walk. Reapplication for a Class B permit requires the same documentation as an original application.

e) Standing Vehicle Hunting Rules

1) Standing vehicle permit holders are authorized to shoot from a vehicle that is totally immobile with the engine turned off. When the vehicle is moving, guns must be unloaded and enclosed in a case, and bow and arrow devices unstrung, enclosed in a case or otherwise rendered inoperable, in accordance with Section 2.33(n) of the Wildlife Code (520 ILCS 5/2.33(n)). Holders of Standing Vehicle Permits, who are in the field legally hunting pheasant, quail, Hungarian partridge or rabbit, shall be permitted to carry a loaded and uncased shotgun in or on a vehicle or conveyance in accordance with the provisions of 17 Ill. Adm. Code 530.10(b).

2) The standing vehicle permit applies only on private property where permission of the landowner has been obtained. It does not apply on public roadways. Persons wishing to shoot/hunt from a standing vehicle on Department-owned or managed properties must obtain permission from the Site Superintendent in accordance with 17 Ill. Adm. Code 110.

3) Season dates, hours, daily limits, possession limits, and all other requirements by law apply.



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- 4) The issuance of a standing vehicle permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.
- 5) The standing vehicle permit must be carried by the hunter while exercising this privilege and must be presented to any law enforcement authority upon request.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Dog Training on Department-Owned or -Managed Sites
- 2) Code Citation: 17 Ill. Adm. Code 950
- 3) Section Numbers: Amendment Action:  
950.40 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].
- 5) Effective Date of Amendments: December 18, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 22, 2000, 24 Ill. Reg. 14141
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Jim Edgar Panther Creek State Fish and Wildlife Area was added to the list of sites open to dog training.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price  
Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield IL 62701-1787  
217/782-1809

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION  
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
 SUBCHAPTER b: FISH AND WILDLIFE

## PART 950

## DOG TRAINING ON DEPARTMENT-OWNED OR -MANAGED SITES

Section	Statewide Regulations
950.10	Definitions
950.20	Permit Requirements
950.30	Dog Training Seasons and Regulations
950.40	Dog Training Regulations (Repealed)
950.50	Penalties, Future Rights/Appeal Procedures
950.60	

AUTHORITY: Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].

SOURCE: Amendment filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10652; Part repealed, new Part adopted at 12 Ill. Reg. 1808, effective December 31, 1987; amended at 14 Ill. Reg. 13524, effective August 10, 1990; amended at 15 Ill. Reg. 11581, effective August 2, 1991; amended at 16 Ill. Reg. 11034, effective June 30, 1992; amended at 17 Ill. Reg. 13447, effective July 30, 1993; amended at 19 Ill. Reg. 11780, effective August 3, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 23 Ill. Reg. 8392, effective July 7, 1999; emergency amendment at 24 Ill. Reg. 14069, effective September 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 14069, effective \_\_\_\_\_, effective \_\_\_\_\_.

## Section 950.40 Dog Training Seasons and Regulations

- a) Dog training is prohibited on Department sites except in designated areas.
- b) The use of horses for dog training purposes is prohibited except at the sites designated by (1).
- c) Only handguns and shotguns with blank cartridges shall be used on Department sites except shotguns with shot shells may be used only for shoot-to-retrieve training using domestic pigeons and/or captive-reared ring-necked pheasants, bobwhite quail, chukar partridge, and mallard ducks at the sites ~~sites~~ designated by (2).
  - 1) Only shot shells with a shot size of No. 6 lead, tungsten-iron, tungsten-polymer, tungsten-matrix, No. 5 bismuth, No. 4 steel or tin, or smaller shall be used for shoot-to-retrieve dog training.
  - 2) Individuals participating in shoot-to-retrieve dog training are required to wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches.
  - 3) Individuals participating in shoot-to-retrieve dog training are

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- required to wear a back patch issued at the site headquarters on the outside of the upper outer blaze orange garment.
- d) Dog training at the following sites will be open from September 1 - March 31, except closed during site upland game season; additional exceptions in parenthesis:
    - Carlyle Lake Lands and Waters
    - Clinton Lake State Recreation Area
    - Edward R. Madigan State Park
    - Eldon Hazlet State Park (January 1 - March 31, except north of Allen Branch open per statewide regulations)
    - Hamilton County Conservation Area
    - Hidden Springs State Forest
    - Horseshoe Lake State Park
    - Iroquois County Wildlife Management Area
    - Jim Edgar Panther Creek State Fish and Wildlife Area (water dog training only is open all year)
    - Kankakee River State Park
    - Kaskaskia River State Fish and Wildlife Area (water dog training only is open all year) (1)
    - Kickapoo State Park (1)
    - Lake Shelbyville - Eagle Creek State Park
    - Lake Shelbyville - Eagle Creek Wildlife Management Area
    - Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Area
    - Marseilles Wildlife Area (closed Friday, Saturday, and Sunday during September, October and March)
    - Middle Fork Fish and Wildlife Management Area (1)
    - Peabody River King State Fish and Wildlife Area (West and South Subunits only; water dog training only is open all year)
    - Saline County Conservation Area

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## Sam Parr State Park

Sand Ridge State Forest (during the Controlled Pheasant season, training is permitted on Mondays and Tuesdays) (1)

Sangchris Lake State Park (water dog training is open all year)

Shabbona Lake State Park (closed during archery deer season)

Silver Springs State Fish and Wildlife Area

Stephen A. Forbes State Fish and Wildlife Area

Ten Mile Creek Fish and Wildlife Area

Trail of Tears State Forest

Washington County Conservation Area

Weinberg-King State Park (1)

e) Dog training at the following sites will be allowed throughout the year

Banner Marsh Fish and Wildlife Area (closed 7 days before through end of waterfowl season)

Des Plaines Conservation Area (closed during site's upland game season) (1) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26) (1)

Randolph County Conservation Area

Rock Cut State Park

(Source: Amended at 24 Ill. Reg. 1.9187, effective \_\_\_\_\_)

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1) Heading of the Part: Mobile Services

2) Code Citation: 35 Ill. Adm. Code 240

3) Section Numbers: Adopted Action:

240.102 Amended

240.104 Amended

240.105 Amended

240.106 Amended

240.124 Repealed

240.125 Repealed

240.162 Amended

240.163 Amended

240.164 Amended

240.165 Amended

240.191 Amended

TABLE A Amended

TABLE B Amended

TABLE C Amended

4) Statutory Authority: 415 ILCS 5/27, 625 ILCS 5/13B-20.

5) Effective Date of Rule: December 18, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Board's Chicago office and is available for public inspection.

9) Notices of Proposal Published in Illinois Register: 24 Ill. Reg. 13820 September 15, 2000

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Differences between proposal and final version:

In the Table of Contents, Section 240.107 was removed.

In the Table of Contents, Sections 240.124 and 240.125 were amended to read "Repealed".

The Table of Contents through 240. Table C was amended to read "amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_."

In Section 240.102 though 240. Table C, a tab was added between the section



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number and the title.

In Section 240.102, "Adjusted Loaded Vehicle Weight" was amended to read "Adjusted loaded vehicle weight".

In Section 240.102, the definition of "Adjusted loaded vehicle weight" was clarified.

In Section 240.102, the definition of "IM240" was added.

In Section 240.102, the definition of "Loaded Mode" was deleted from the definition "Light duty truck 2".

In Section 240.102, additional variations of the term "transient loaded mode test" were added.

In Section 240.102, the comma after "Part"was deleted.

Section 240.107 was not amended.

Section 240.162 was amended to reflect a "January 31, 2001" termination date for start-up standards for all vehicles. Additionally, beginning "February 1, 2001" the start-up standards shall continue to apply for all "model year 1981 though model year 1987 LDV, LDPL, and LDV2 vehicles."

Section 240.163 was amended to reflect a "February 1, 2001" effective date for final standards.

In Section 240.165, the comma after guidance was placed outside of the quotation marks.

Section 240.191 was redrafted.

All references to "subpart" in Section 240.Table C were changed to "subsection".

All references to "TABLE" in subsections a, b, and c of Section 240.Table C were changed to "Table".

All periods at the end of subsections a, b, and c of Section 240.Table C were changed to colons.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? JCAR did not issue an agreements letter as this rule is exempt from the Administrative Procedure Act. See 625 ILCS 5/13B- 30(d)(1998).

13) Will this rule replace an emergency rule currently in effect? No

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14) Are there any amendments pending on this Part? Yes

Section Number	Proposed Action	Illinois Register Citation
240.102	Amended	24 Ill. Reg. 14146
240.104	Amended	24 Ill. Reg. 14146
240.105	Amended	24 Ill. Reg. 14146
240.106	Amended	24 Ill. Reg. 14146
240.107	Amended	24 Ill. Reg. 14146
240.140	Amended	24 Ill. Reg. 14146
240.141	Amended	24 Ill. Reg. 14146

15) Summary and Purpose of Rule: On August 21, 2000, the Agency filed with the Board proposed amendments to the enhanced vehicle inspection and maintenance regulations at 35 Ill. Adm. Code 240. The Agency's proposal was filed under Section 13B-20(a) of the Vehicle Emissions Law of 1995.

The Vehicle Emissions law provides that Section 27(b) of the Act and the rulemaking provisions of the Administrative Procedure Act "shall not apply to rules adopted by the Board under this subsection." Additionally, Section 13B-20(a) requires the Board to adopt rules within 120 days after it receives the Agency's proposal, that is, on or before December 19, 2000.

On August 24, 2000, the Board accepted the proposal for hearing and directed the proposal be filed for publication in the Illinois Register as a proposal for public comment. The proposal for public comment appeared in the Illinois Register on September 15, 2000, 24 Ill. Reg. 13820.

The Board held public hearings on October 11 and November 9. At both hearings the Agency offered testimony in support of its proposal. On November 9, 2000, the Agency filed public comments. The Board received no other testimony or public comments.

The Agency describes its proposed changes as follows:

- delaying the implementation of "pass/fail" on-board diagnostic testing from January 1, 2001, to January 1, 2002;
- retaining current, more lenient "start-up" hydrocarbon and carbon monoxide emission standards for model year 1981 through model year 1987 light duty vehicles, light duty trucks 1, and light duty trucks 2; and
- adding several definitions, incorporating USEPA guidance by reference, eliminating outdated provisions, and clarifying certain provisions.

The Agency describes these proposed changes as "relatively minor adjustments to the Enhanced I/M program." Agency Statement of Reasons at

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5. The Agency states that it is proposing the amendments "to enable Illinois to meet federal and state mandated enhanced emissions testing requirements." Id. at 3. The Agency also states that its proposal is "designed to promote the acceptance of and adherence to the enhanced I/M program, and to refine certain test requirements." Id. at 5.

16) Information and questions regarding this adopted rule shall be directed to:

Andrew Boron  
(312) 814-6062  
100 W. Randolph Street  
State of Illinois Center  
Suite 11-500  
Chicago, IL 60601

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address above. Please refer to the Docket number R01-12 in your request.

The full text of the adopted amendments begins on the next page.

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER k: EMISSION STANDARDS AND LIMITATIONS  
FOR MOBILE SOURCES

PART 240  
MOBILE SOURCES

## SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section	
240.101	Preamble
240.102	Definitions
240.103	Prohibitions
240.104	Inspection
240.105	Penalties
240.106	Determination of Violation
240.107	Incorporations by Reference

## SUBPART B: EMISSIONS

Section	
240.121	Smoke Emissions
240.122	Diesel Engine Emissions Standards for Locomotives
240.123	Liquid Petroleum Gas Fuel Systems
240.124	Vehicle Exhaust Emission Standards <u>(Repealed)</u>
240.125	Compliance Determination <u>(Repealed)</u>

## SUBPART C: HEAVY-DUTY DIESEL SMOKE OPACITY STANDARDS AND TEST PROCEDURES

Section	
240.140	Applicability
240.141	Heavy-Duty Diesel Vehicle Smoke Opacity Standards and Test Procedures

## SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

Section	
240.151	Applicability
240.152	Steady-State Idle Mode Vehicle Exhaust Emission Standards
240.153	Compliance Determination

## SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section	
240.161	Applicability
240.162	Vehicle Exhaust Emission Start-Up Standards
240.163	Vehicle Exhaust Emission Final Standards

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240.164 Vehicle Exhaust Emission Fast-Pass Standards  
240.165 Compliance Determination

SUBPART F: EVAPORATIVE TEST STANDARDS

Section  
240.171 Applicability  
240.172 Evaporative System Integrity Test Standards  
240.173 Evaporative System Purge Test Standards (Repealed)

SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

Section  
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Section  
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APPENDIX A Rule into Section Table  
APPENDIX B Section into Rule Table

TABLE A Vehicle Exhaust Emission Start-Up Standards  
TABLE B Vehicle Exhaust Emission Final Standards  
TABLE C Vehicle Exhaust Emission Fast-Pass Standards

AUTHORITY: Implementing Sections 9, 10 and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9, 10, 13, and 27] and Section 13B-20 of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20].

SOURCE: Adopted as Chapter 2: Air Pollution, Part VII: Mobile Sources, filed and effective April 14, 1972; codified at 7 Ill. Reg. 13628; amended in R85-25, at 10 Ill. Reg. 11277, effective June 16, 1986; amended in R90-20 at 16 Ill. Reg. 6184, effective April 7, 1992; amended in R94-20 at 18 Ill. Reg. 18013, effective December 12, 1994; amended in R94-19 at 18 Ill. Reg. 18228, effective December 20, 1994; amended in R98-24 at 22 Ill. Reg. 13723, effective July 13, 1998; expedited correction at 22 Ill. Reg. 21120, effective July 13, 1998; amended at 24 Ill. Reg. 13116, effective 12/1/98.

BOARD NOTE: This Part implements the Environmental Protection Act as of July 1, 1994.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

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Section 240.102 Definitions

All terms which appear in this Part have the definitions specified in this Part and 35 Ill. Adm. Code 201 and 211. Where conflicting definitions occur, the definitions of this Section apply in this Part.

"Adjusted loaded vehicle weight ("ALVW")" means the value of the vehicle curb weight plus gross vehicle weight rating divided by two.

"Agency" means the Illinois Environmental Protection Agency.

"Diesel engine" means all types of internal-combustion engines in which air is compressed to a temperature sufficiently high to ignite fuel injected directly into the cylinder area.

"Diesel locomotive" means a diesel engine vehicle designed to move cars on a railway.

"Evaporative system integrity test" means a test of a vehicle's evaporative system. The test shall either consist of a leak check of a vehicle's fuel cap with a fuel cap pressure decay tester (fuel cap pressure decay test), a fuel cap leak flow tester (fuel cap leak flow test), or a visual functional check, as applicable.

"Fuel cap" means a device used to seal a vehicle's fuel inlet.

"Fuel cap leak flow test" means a test which may be performed in accordance with this Part on a vehicle's fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap leak flow tester" means a device used to determine the leak flow integrity of a vehicle's fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

"Fuel cap pressure decay test" means the test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap pressure decay tester" means a device used to determine the pressure decay integrity of a vehicle's fuel cap by monitoring the pressure behind the fuel cap for a ten second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

"Fuel cap visual functional test" means the test performed in accordance with this Part on a vehicle's fuel cap using visual



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analysis to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Full power position" means the throttle position at which the engine fuel delivery is at maximum flow.

"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Heavy duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

"High idle" means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at speed of  $2500 \pm 300$  RPM.

"IM240" means the transient mass emissions inspection procedure that the USEPA developed and has been implemented for use in the Illinois Enhanced Vehicle Inspection and Maintenance Program. 240 refers to the 240 second maximum duration of the driving cycle that the vehicle undergoes as it is positioned on the dynamometer and essentially driven for the purpose of measuring the mass amount of emissions coming out of the tail pipe.

"Idle mode" means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

"Initial idle mode" means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in "as-received" condition.

"Light duty truck 1" means a motor vehicle rated at 6000 pounds maximum GVWR or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty truck 2" means a motor vehicle rated between 6001 and 8500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling

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off-street or off-highway operation and use.

"Light duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or fewer. "Loaded mode" means that portion of a vehicle emission test procedure conducted with the vehicle positioned and operating under load on a chassis dynamometer.

"Loaded mode" means that portion of a vehicle emission test procedure conducted with the vehicle positioned and operating under load on a chassis dynamometer.

"Loaded vehicle weight (LVW)" means the vehicle curb weight plus 300 pounds.

"Measured values" means five second running averages of exhaust emission concentrations sampled at a minimum rate of twice per second.

"Model year" means the year of manufacture of a motor vehicle based upon the annual production period as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

"Motor vehicle" as used in this Part shall have the same meaning as in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].

"Preconditioning mode" means a period of steady-state loaded mode or high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failures caused by improper or insufficient warm-up.

"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Smokemeter or opacimeter" means an optical instrument designed to measure the opacity of smoke or diesel exhaust gases using the light extinction method.

"Snap-idle cycle" means rapidly depressing the accelerator pedal from normal idle to the full power position while the vehicle is in neutral, holding the pedal in the position for no longer than ten seconds or until the engine reaches maximum RPM, and fully releasing the pedal so that the engine decelerates to normal idle.

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Section 240.106 Determination of Violation

- a) Any violations of Sections 240.103, 240.121, 240.122, and 240.123 of this Part shall be determined by visual observation or by a test procedure employing an opacity measurement system as qualified by 35 Ill. Adm. Code 201, Subpart J.
- b) Any violations of Sections 240.124, 240.152, 240.162, 240.163, 240.172, 240.182, or 240.192 of this Part shall be determined in accordance with test procedures adopted by the Agency in 35 Ill. Adm. Code 276.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: EMISSIONS

Section 240.124 Vehicle Exhaust Emission Standards (Repealed)

- a) Exhaust emissions from light-duty vehicles shall not exceed the following limitations:
- | Model Year     | Carbon Monoxide (%) | Hydrocarbons as Hexane (ppm) |
|----------------|---------------------|------------------------------|
| 1968-1971      | 9.0                 | 900                          |
| 1972-1974      | 8.0                 | 800                          |
| 1975-1977      | 7.0                 | 700                          |
| 1978-1979      | 6.0                 | 600                          |
| 1980           | 3.0                 | 300                          |
| 1981 and later | 1.2                 | 220                          |
- b) Exhaust emissions from light-duty trucks, which for the purposes of this subsection means a motor vehicle rated at 8000 pounds gross vehicle weight or less which is designed for carrying more than 10 persons or designed for the transportation of property freight or cargo or is a derivative of such a vehicle, shall not exceed the following limitations:
- | Model Year     | Carbon Monoxide (%) | Hydrocarbons as Hexane (ppm) |
|----------------|---------------------|------------------------------|
| 1968-1971      | 9.0                 | 900                          |
| 1972-1974      | 8.0                 | 800                          |
| 1975-1978      | 7.0                 | 700                          |
| 1979-1980      | 6.0                 | 600                          |
| 1981-1983      | 3.0                 | 300                          |
| 1984 and later | 1.2                 | 220                          |
- c) Exhaust emissions from heavy-duty vehicles, which for the purposes of this subsection means a vehicle with 8001 pounds or greater

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"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a loaded or high idle preconditioning mode and a second-chance idle mode.

"Transient loaded mode test" or "IM240 testing" or "transient IM240 loaded mode exhaust emission test procedure" or "transient IM240 test procedure" means a vehicle emissions test run on an inertial and power absorbing dynamometer using USEPA's IM240 driving cycle consisting of accelerations and decelerations simulating on-road driving conditions.

"Vehicle curb weight" means the actual vehicle weight plus standard equipment and a full fuel tank.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 240.104 Inspection

- a) All motor vehicles subject to inspection pursuant to Section 13A-104 of the Vehicle Emissions Inspection Law [625 ILCS 5/13A-104] shall comply with the exhaust emission standards for carbon monoxide and hydrocarbons set forth at Section 240.124 of this Part.
- b) All motor vehicles subject to inspection pursuant to Section 13B-15 of the Vehicle Emissions Inspection Law [625 ILCS 5/13B-15] shall comply with applicable vehicle emission standards contained in Sections 240.152, 240.162, 240.163, 240.172, 240.182 and 240.192 of this Part.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 240.105 Penalties

- a) Any violations of Sections 240.103, 240.121, 240.122, and 240.123 of this Part shall be subject to the penalties as set forth in Section 42 of the Act [415 ILCS 5/42].
- b) Any violations of Sections 240.104(a) and 240.124 of this Part shall be subject to the penalties as set forth in Sections 13A-112 and 13A-113 of the Vehicle Emissions Inspection Law [625 ILCS 5/13A-112 and 13A-113].
- c) Any violations of Sections 240.104(b), 240.152, 240.162, 240.163, 240.172, 240.182, and 240.192 of this Part shall be subject to the penalties as set forth in Sections 13B-55 and 13B-60 of the Vehicle Emissions Inspection Law.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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manufacturers maximum gross vehicle weight rating (GVWR) shall not exceed the following limitations:

Model Year	Carbon Monoxide	Hydrocarbons as Hexane
1968-1971	9-5	1500
1972-1978	9-0	900
1979-1984	7-0	700
1985 and later	3-0	300

(Source: Repealed at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 240.125 Compliance Determination (Repealed)

Purposes of determining compliance with Section 240.124 of this Part, all vehicles shall be inspected while operating in the idle mode, and all 1981 and later model year light-duty vehicles and light-duty trucks (as defined in Subsection 240.124(b) of this Part) shall be inspected at high idle during a two-speed idle test.

(Source: Repealed at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

## Section 240.162 Vehicle Exhaust Emission Start-Up Standards

Vehicle exhaust emission start-up standards contained in Section 240.161 of this Part shall apply for all vehicles subject to inspection until January 31, 2001 two years after the beginning of IM240 testing. From February 1, 2001, onward, these standards shall continue to apply to all model year 1981 through model year 1987 LDV, LDT1, and LDT2 vehicles. All standards are expressed in grams per mile (gpm).

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 240.163 Vehicle Exhaust Emission Final Standards

Beginning February 1, 2001, vehicle vehicle exhaust emission final standards contained in Section 240.162 of this Part shall apply for all vehicles subject to inspection beginning at the conclusion of testing using the start-up vehicle exhaust emissions standards required in Section 240.162 except for model year 1981 through model year 1987 LDV, LDT1, and LDT2 vehicles, which shall continue to use the standards contained in Section 240.161 of this Part as described in Section 240.162. All standards are expressed in grams per mile (gpm).

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(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 240.164 Vehicle Exhaust Emission Fast-Pass Standards

Vehicle exhaust emissions fast-pass standards contained in Section 240.161 of this Part will apply for all vehicles subject to inspection under Section 240.161 of this Part utilizing the IM240 transient loaded mode exhaust emission test procedures that have been adopted by the Agency in 35 Ill. Adm. Code 276. All standards are expressed as the cumulative grams for each second of the composite and Phase 2 tests.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 240.165 Compliance Determination

a) Vehicle Exhaust Emission Start-Up and Final Standards - Compliance shall be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient IM240 test procedures adopted by the Agency. If the corrected, composite emission rates exceed standards for any pollutant, additional analysis of test results shall review the second phase ("Phase 2") of the driving cycle separately. Phase 2 shall include second 94 through second 239 of the driving cycle. Second-by-second emission rates in grams and composite emission rates in grams per mile for Phase 2 and for the entire composite test shall be recorded for each pollutant. For any given pollutant, if the composite emission level is at or below the composite standard or if the Phase 2 grams per mile emission level is at or below the applicable Phase 2 standard, then the vehicle shall pass the test for that pollutant. Composite and Phase 2 emission rates shall be calculated in accordance with procedures specified in "High-Tech I/M Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance," incorporated by reference at Section 240.107(c) 240.107 of this Part.

b) Vehicle Exhaust Emission Fast-Pass Standards - Compliance will be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient IM240 test procedures adopted by the Agency. Vehicles will be fast-passed using the following algorithm:

- Beginning at second 30 of the driving cycle, cumulative second-by-second emission levels for each second, calculated from the start of the cycle in grams, will be compared to the cumulative fast-pass emission standards for the second under consideration. Beginning at second 109, fast-pass decisions are based upon analysis of cumulative emissions in Phase 2, the



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portion of the test beginning at second 94, as well as emission levels accumulated from the beginning of the composite test.  
2) A vehicle will pass the transient IM240 test for a given pollutant if either of the following conditions occurs:  
A) cumulative emissions of the pollutant are below the full cycle fast-pass standard for the second under consideration;  
or  
B) at second 109 and later, cumulative Phase 2 emissions are below the Phase 2 fast-pass standards for the second under consideration.

3) Testing may be terminated when fast-pass criteria are met for all subject pollutants in the same second.  
4) If a fast-pass determination cannot be made for all subject pollutants before the driving cycle ends, the pass/fail determination for each component will be based on composite or Phase 2 emissions over the full driving cycle according to the procedures in subsection (a) of this Section. In cases where fast-pass standards are not used, composite emission rates in grams per mile for Phase 2 and for the entire composite test will be recorded for each pollutant.

5) Composite and Phase 2 emission rates will be calculated in accordance with procedures specified in "High-Tech I/M Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance" incorporated by reference at Section 240.107(c) 240-107 of this Part.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section 240.191 Applicability

The standards of this Subpart apply to all 1996 and newer model year light duty vehicles, light duty trucks 1, and light duty trucks 2 that are required to meet the standards contained in 40 CFR 86.094-17 and which are inspected utilizing the on-board diagnostic test procedures contained ~~that will be adopted by the Agency~~ in 35 Ill. Adm. Code 276. Vehicles that receive a result of fail do not thereby fail their emissions test until January 1, 2002.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 240. TABLE A Vehicle Exhaust Emission Start-Up Standards

Light Duty Vehicles:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+	0.80	0.50	15.0	12.0	2.0	Reserved
1991-1995	1.20	0.75	20.0	16.0	2.5	Reserved
1983-1990	2.00	1.25	30.0	24.0	3.0	Reserved
1981-1982	2.00	1.25	60.0	48.0	3.0	Reserved

Light Duty Trucks 1:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+ (≤ 3750 LVW)	0.80	0.50	15.0	12.0	2.0	Reserved
(> 3750 LVW)	1.00	0.63	20.0	16.0	2.5	Reserved
1991-1995	2.40	1.50	60.0	48.0	3.0	Reserved
1988-1990	3.20	2.00	80.0	64.0	3.5	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

Light Duty Trucks 2:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+ (≤ 5750 ALVW)	1.00	0.63	20.0	16.0	2.5	Reserved
(> 5750 ALVW)	2.40	1.50	60.0	48.0	4.0	Reserved
1991-1995	2.40	1.50	60.0	48.0	4.5	Reserved
1988-1990	3.20	2.00	80.0	64.0	5.0	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 240.TABLE B Vehicle Exhaust Emission Final Standards

## Light Duty Vehicles:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	0.60	0.40	10.0	8.0	1.5	Reserved
1983-1995	0.80	0.50	15.0	12.0	2.0	Reserved
1981-1982	0.80	0.50	30.0	24.0	2.0	Reserved

## Light Duty Trucks 1:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	0.60	0.40	10.0	8.0	1.5	Reserved
(≤ 3750 LVW)	0.80	0.50	13.0	10.0	1.8	Reserved
(> 3750 LVW)	1.60	1.00	40.0	32.0	2.5	Reserved
1988-1995	1.60	1.00	40.0	32.0	4.5	Reserved
1984-1987	3.40	2.00	70.0	56.0	4.5	Reserved
1981-1983						

## Light Duty Trucks 2:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	0.80	0.50	13.0	10.0	1.8	Reserved
(≤ 5750 ALVW)	0.80	0.50	15.0	12.0	2.0	Reserved
(> 5750 ALVW)	1.60	1.00	40.0	32.0	3.5	Reserved
1988-1995	1.60	1.00	40.0	32.0	4.5	Reserved
1984-1987	3.40	2.00	70.0	56.0	4.5	Reserved
1981-1983						

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 240.TABLE C Vehicle Exhaust Emission Fast-Pass Standards

- a) Vehicles having composite hydrocarbon emission limitations of less than 1.25 grams per mile, in Section 240.Table A or Section 240.Table B, shall use the hydrocarbon fast-pass standards contained in this subsection. Vehicles having and composite carbon monoxide emission limitations of less than 20.0 grams per mile, in Section 240.Table A or Section 240.Table B, shall use the carbon monoxide fast-pass standards contained in this subsection:

Second	Hydrocarbons		Carbon Monoxide	
	Composite	Phase 2	Composite	Phase 2
30	0.124	N/A	0.693	N/A
31	0.126	N/A	0.773	N/A
32	0.129	N/A	0.837	N/A
33	0.135	N/A	0.851	N/A
34	0.140	N/A	0.853	N/A
35	0.146	N/A	0.857	N/A
36	0.150	N/A	0.900	N/A
37	0.153	N/A	0.960	N/A
38	0.156	N/A	1.034	N/A
39	0.160	N/A	1.070	N/A
40	0.165	N/A	1.076	N/A
41	0.169	N/A	1.083	N/A
42	0.172	N/A	1.102	N/A
43	0.173	N/A	1.111	N/A
44	0.177	N/A	1.114	N/A
45	0.197	N/A	1.157	N/A
46	0.200	N/A	1.344	N/A
47	0.208	N/A	1.482	N/A
48	0.221	N/A	1.530	N/A
49	0.232	N/A	1.542	N/A
50	0.235	N/A	1.553	N/A
51	0.238	N/A	1.571	N/A
52	0.240	N/A	1.595	N/A
53	0.242	N/A	1.633	N/A
54	0.246	N/A	1.685	N/A
55	0.249	N/A	1.689	N/A
56	0.252	N/A	1.693	N/A
57	0.261	N/A	1.700	N/A
58	0.271	N/A	1.723	N/A
59	0.276	N/A	1.852	N/A
60	0.278	N/A	1.872	N/A
61	0.280	N/A	1.872	N/A
62	0.282	N/A	1.872	N/A
63	0.283	N/A	1.900	N/A
64	0.284	N/A	1.917	N/A
65	0.285	N/A	1.944	N/A

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66	0.286	N/A	2.000	N/A
67	0.288	N/A	2.060	N/A
68	0.291	N/A	2.064	N/A
69	0.294	N/A	2.076	N/A
70	0.296	N/A	2.104	N/A
71	0.298	N/A	2.117	N/A
72	0.300	N/A	2.125	N/A
73	0.302	N/A	2.130	N/A
74	0.304	N/A	2.138	N/A
75	0.307	N/A	2.152	N/A
76	0.308	N/A	2.170	N/A
77	0.308	N/A	2.188	N/A
78	0.308	N/A	2.200	N/A
79	0.314	N/A	2.212	N/A
80	0.320	N/A	2.212	N/A
81	0.324	N/A	2.221	N/A
82	0.327	N/A	2.222	N/A
83	0.329	N/A	2.227	N/A
84	0.333	N/A	2.236	N/A
85	0.336	N/A	2.243	N/A
86	0.339	N/A	2.262	N/A
87	0.343	N/A	2.271	N/A
88	0.347	N/A	2.284	N/A
89	0.350	N/A	2.299	N/A
90	0.356	N/A	2.308	N/A
91	0.358	N/A	2.326	N/A
92	0.360	N/A	2.330	N/A
93	0.363	N/A	2.331	N/A
94	0.367	N/A	2.344	N/A
95	0.370	N/A	2.347	N/A
96	0.372	N/A	2.355	N/A
97	0.376	N/A	2.395	N/A
98	0.388	N/A	2.451	N/A
99	0.396	N/A	2.508	N/A
100	0.405	N/A	2.590	N/A
101	0.410	N/A	2.660	N/A
102	0.411	N/A	2.749	N/A
103	0.412	N/A	2.913	N/A
104	0.413	N/A	3.162	N/A
105	0.421	N/A	3.170	N/A
106	0.428	N/A	3.197	N/A
107	0.430	N/A	3.288	N/A
108	0.455	N/A	3.419	N/A
109	0.459	0.015	3.587	0.168
110	0.462	0.017	3.595	0.173
111	0.464	0.021	3.640	0.237
112	0.466	0.024	3.740	0.266
113	0.468	0.024	3.868	0.280

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114	0.471	0.025	3.877	0.291
115	0.488	0.026	3.934	0.314
116	0.513	0.029	4.015	0.331
117	0.538	0.032	4.061	0.345
118	0.561	0.035	4.063	0.350
119	0.577	0.035	4.079	0.356
120	0.580	0.036	4.140	0.367
121	0.586	0.038	4.185	0.388
122	0.594	0.040	4.199	0.407
123	0.603	0.041	4.205	0.463
124	0.610	0.042	4.212	0.480
125	0.615	0.042	4.232	0.506
126	0.624	0.042	4.298	0.518
127	0.628	0.045	4.344	0.522
128	0.632	0.046	4.361	0.525
129	0.637	0.046	4.366	0.528
130	0.641	0.049	4.369	0.530
131	0.643	0.050	4.372	0.530
132	0.644	0.052	4.435	0.534
133	0.645	0.054	4.523	0.550
134	0.647	0.054	4.524	0.554
135	0.651	0.054	4.525	0.590
136	0.658	0.055	4.531	0.616
137	0.663	0.055	4.534	0.639
138	0.666	0.056	4.542	0.653
139	0.668	0.059	4.553	0.662
140	0.670	0.061	4.554	0.683
141	0.672	0.061	4.554	0.696
142	0.675	0.061	4.554	0.708
143	0.678	0.063	4.554	0.721
144	0.681	0.064	4.554	0.739
145	0.684	0.065	4.554	0.742
146	0.686	0.066	4.554	0.743
147	0.688	0.067	4.554	0.745
148	0.690	0.068	4.554	0.748
149	0.692	0.069	4.554	0.751
150	0.694	0.070	4.554	0.762
151	0.696	0.071	4.556	0.789
152	0.698	0.072	4.556	0.790
153	0.700	0.073	4.565	0.794
154	0.702	0.073	4.612	0.799
155	0.704	0.074	4.834	0.805
156	0.706	0.077	5.702	0.842
157	0.708	0.079	5.841	0.990
158	0.710	0.082	6.170	1.038
159	0.712	0.082	6.670	1.357
160	0.716	0.086	7.425	1.455
161	0.750	0.095	8.379	1.546



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162	0.784	0.107	9.648	1.824	210	1.443	0.579	27.953	14.907
163	0.805	0.115	10.918	2.746	211	1.453	0.595	28.205	14.916
164	0.840	0.122	12.157	3.073	212	1.463	0.605	28.543	15.014
165	0.853	0.127	12.731	3.633	213	1.468	0.614	28.997	15.221
166	0.874	0.159	12.831	4.505	214	1.470	0.622	29.000	15.472
167	0.903	0.186	12.892	4.952	215	1.474	0.627	29.005	15.555
168	0.910	0.189	12.932	5.254	216	1.478	0.638	29.081	15.652
169	0.914	0.200	13.702	5.730	217	1.481	0.643	29.281	15.969
170	0.916	0.220	14.139	6.051	218	1.484	0.643	29.483	16.028
171	0.919	0.236	14.964	6.333	219	1.487	0.645	29.734	16.375
172	0.931	0.247	15.704	6.490	220	1.490	0.651	29.803	16.487
173	0.948	0.257	16.253	6.796	221	1.493	0.655	29.821	16.524
174	0.983	0.267	16.907	7.205	222	1.504	0.663	29.847	16.578
175	1.018	0.283	17.655	8.151	223	1.522	0.671	29.862	16.684
176	1.027	0.295	18.020	8.230	224	1.547	0.675	29.873	16.755
177	1.035	0.312	18.349	8.584	225	1.549	0.684	30.008	16.770
178	1.051	0.318	18.671	8.800	226	1.562	0.694	30.126	16.805
179	1.074	0.323	18.972	8.847	227	1.574	0.701	30.127	16.865
180	1.084	0.337	19.228	8.913	228	1.579	0.702	30.127	16.960
181	1.099	0.345	20.123	9.122	229	1.584	0.708	30.208	16.960
182	1.121	0.350	20.405	9.532	230	1.589	0.708	30.314	16.962
183	1.132	0.359	20.754	10.256	231	1.590	0.709	30.323	16.988
184	1.152	0.387	21.684	10.862	232	1.596	0.710	30.325	17.072
185	1.161	0.398	21.955	10.996	233	1.598	0.710	30.368	17.094
186	1.168	0.400	22.650	11.206	234	1.604	0.711	30.411	17.184
187	1.175	0.402	22.989	11.514	235	1.610	0.712	30.416	17.187
188	1.181	0.405	23.535	11.894	236	1.612	0.712	30.428	17.188
189	1.188	0.418	23.876	12.019	237	1.613	0.712	30.430	17.189
190	1.203	0.429	24.018	12.170	238	1.614	0.713	30.452	17.241
191	1.219	0.442	24.464	12.517	239	1.615	0.716	30.488	17.370
192	1.233	0.457	24.685	12.598	b) Vehicles having composite hydrocarbon emission limitations of at least 1.25 grams per mile but less than 2.00 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the hydrocarbon fast-pass standards contained in this subsection. Vehicles having and composite carbon monoxide emission limitations of at least 20.0 grams per mile but less than 30.0 grams per mile, in Section 240. Table A or Section 240. Table B, shall use the carbon monoxide fast-pass standards contained in this subsection:				
193	1.251	0.473	24.931	12.625					
194	1.255	0.487	25.188	12.653					
195	1.258	0.501	25.468	12.777					
196	1.265	0.510	25.627	12.906					
197	1.280	0.512	25.746	12.989					
198	1.293	0.514	25.850	13.060					
199	1.301	0.516	25.974	13.165					
200	1.313	0.518	26.141	13.242					
201	1.324	0.527	26.225	13.412					
202	1.332	0.540	26.338	13.662					
203	1.341	0.547	26.547	13.773					
204	1.357	0.553	26.818	13.942					
205	1.375	0.559	27.052	14.090					
206	1.392	0.563	27.393	14.224					
207	1.408	0.567	27.501	14.426					
208	1.422	0.571	27.632	14.498					
209	1.433	0.575	27.803	14.776					

		Hydrocarbons		Carbon Monoxide	
		Composite	Phase 2	Composite	Phase 2
Second					
30		0.247	N/A	1.502	N/A
31		0.253	N/A	1.546	N/A
32		0.258	N/A	1.568	N/A
33		0.263	N/A	1.582	N/A
34		0.268	N/A	1.593	N/A
35		0.277	N/A	1.602	N/A
36		0.283	N/A	1.621	N/A

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37	0.293	N/A
38	0.297	N/A
39	0.298	N/A
40	0.313	N/A
41	0.320	N/A
42	0.327	N/A
43	0.342	N/A
44	0.360	N/A
45	0.376	N/A
46	0.389	N/A
47	0.408	N/A
48	0.423	N/A
49	0.434	N/A
50	0.444	N/A
51	0.454	N/A
52	0.465	N/A
53	0.472	N/A
54	0.478	N/A
55	0.485	N/A
56	0.493	N/A
57	0.500	N/A
58	0.505	N/A
59	0.514	N/A
60	0.537	N/A
61	0.540	N/A
62	0.543	N/A
63	0.546	N/A
64	0.551	N/A
65	0.559	N/A
66	0.567	N/A
67	0.575	N/A
68	0.588	N/A
69	0.595	N/A
70	0.601	N/A
71	0.606	N/A
72	0.610	N/A
73	0.617	N/A
74	0.631	N/A
75	0.643	N/A
76	0.651	N/A
77	0.659	N/A
78	0.667	N/A
79	0.676	N/A
80	0.681	N/A
81	0.685	N/A
82	0.689	N/A
83	0.694	N/A
84	0.700	N/A

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85	0.705	N/A	4.518	N/A
86	0.709	N/A	4.520	N/A
87	0.713	N/A	4.522	N/A
88	0.717	N/A	4.522	N/A
89	0.721	N/A	4.523	N/A
90	0.724	N/A	4.526	N/A
91	0.727	N/A	4.527	N/A
92	0.729	N/A	4.527	N/A
93	0.731	N/A	4.528	N/A
94	0.734	N/A	4.528	N/A
95	0.740	N/A	4.528	N/A
96	0.748	N/A	4.529	N/A
97	0.759	N/A	4.575	N/A
98	0.771	N/A	4.703	N/A
99	0.783	N/A	4.805	N/A
100	0.793	N/A	4.886	N/A
101	0.810	N/A	4.957	N/A
102	0.823	N/A	5.104	N/A
103	0.836	N/A	5.340	N/A
104	0.853	N/A	5.496	N/A
105	0.871	N/A	5.625	N/A
106	0.887	N/A	5.815	N/A
107	0.899	N/A	6.473	N/A
108	0.931	N/A	7.037	N/A
109	0.947	0.040	7.419	0.246
110	0.957	0.047	7.643	0.257
111	0.965	0.052	7.759	0.286
112	0.971	0.056	7.824	0.379
113	0.977	0.061	7.889	0.425
114	0.983	0.064	7.960	0.457
115	1.003	0.072	8.024	0.477
116	1.030	0.081	8.076	0.494
117	1.041	0.082	8.111	0.504
118	1.050	0.083	8.130	0.512
119	1.052	0.092	8.148	0.519
120	1.055	0.094	8.211	0.529
121	1.061	0.097	8.478	0.529
122	1.071	0.100	8.548	0.530
123	1.081	0.103	8.561	0.531
124	1.091	0.106	8.568	0.532
125	1.102	0.108	8.572	0.533
126	1.110	0.110	8.584	0.548
127	1.116	0.112	8.592	0.610
128	1.121	0.114	8.596	0.614
129	1.125	0.116	8.597	0.622
130	1.128	0.118	8.601	0.631
131	1.130	0.120	8.605	0.640
132	1.132	0.122	8.608	0.646

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133	1.134	0.123	8.626	0.650
134	1.135	0.124	8.650	0.652
135	1.143	0.127	8.660	0.738
136	1.147	0.130	8.767	0.754
137	1.156	0.134	9.029	0.780
138	1.163	0.139	9.238	0.795
139	1.186	0.146	9.389	0.804
140	1.253	0.149	9.493	0.810
141	1.262	0.151	9.583	0.815
142	1.271	0.153	9.626	0.818
143	1.277	0.155	9.669	0.821
144	1.283	0.157	9.716	0.825
145	1.291	0.162	9.763	0.840
146	1.294	0.164	9.809	0.847
147	1.296	0.166	9.852	0.855
148	1.298	0.168	9.885	0.865
149	1.303	0.169	9.932	0.874
150	1.316	0.170	9.986	0.891
151	1.330	0.171	10.039	0.914
152	1.342	0.172	10.072	0.929
153	1.348	0.173	10.090	0.937
154	1.353	0.175	10.105	0.942
155	1.362	0.178	10.146	0.949
156	1.365	0.180	10.245	1.375
157	1.366	0.189	10.397	1.576
158	1.373	0.198	10.923	1.943
159	1.397	0.203	11.970	2.820
160	1.422	0.207	13.421	3.281
161	1.440	0.214	15.289	3.483
162	1.452	0.221	15.912	3.620
163	1.465	0.229	16.530	4.168
164	1.509	0.247	17.622	4.338
165	1.533	0.274	18.366	4.682
166	1.555	0.309	19.869	5.633
167	1.576	0.318	20.711	6.137
168	1.598	0.322	22.319	6.853
169	1.618	0.333	23.751	7.136
170	1.636	0.343	24.842	7.320
171	1.666	0.356	25.410	7.685
172	1.685	0.385	25.798	8.052
173	1.726	0.409	26.122	8.344
174	1.742	0.433	26.353	8.602
175	1.756	0.453	26.638	8.898
176	1.769	0.463	27.219	9.251
177	1.784	0.507	27.279	10.253
178	1.802	0.523	27.320	10.828
179	1.822	0.528	27.352	10.933
180	1.843	0.541	27.822	11.060

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181	1.864	0.549	28.763	11.188
182	1.884	0.559	29.402	11.345
183	1.896	0.571	29.971	11.733
184	1.915	0.584	30.276	12.598
185	1.940	0.598	30.988	12.953
186	1.958	0.613	31.095	13.213
187	1.972	0.624	31.314	14.131
188	1.985	0.629	31.833	14.839
189	1.991	0.629	32.239	15.137
190	1.993	0.638	32.547	15.138
191	1.995	0.648	32.855	15.141
192	2.001	0.659	33.153	15.595
193	2.015	0.663	33.444	15.658
194	2.031	0.671	33.482	15.704
195	2.047	0.681	33.516	15.729
196	2.063	0.693	33.549	16.058
197	2.079	0.709	33.653	16.987
198	2.094	0.725	33.973	17.064
199	2.109	0.740	34.159	17.073
200	2.122	0.754	34.191	17.153
201	2.130	0.767	34.250	17.332
202	2.137	0.775	34.469	17.406
203	2.157	0.787	34.716	17.641
204	2.172	0.795	34.969	17.922
205	2.194	0.803	35.144	18.484
206	2.222	0.854	35.418	18.553
207	2.245	0.859	35.766	18.658
208	2.268	0.872	35.949	18.953
209	2.279	0.892	36.010	19.266
210	2.288	0.896	36.548	19.309
211	2.301	0.903	37.179	19.731
212	2.316	0.924	37.651	19.902
213	2.332	0.938	38.041	20.012
214	2.345	0.941	38.591	20.260
215	2.354	0.951	38.852	20.739
216	2.362	0.966	38.861	21.346
217	2.368	0.979	38.926	21.810
218	2.376	0.980	39.194	22.001
219	2.384	0.981	39.474	22.290
220	2.391	1.005	39.668	22.324
221	2.395	1.016	39.781	22.343
222	2.400	1.022	39.890	22.522
223	2.405	1.028	39.954	22.661
224	2.409	1.035	39.984	22.666
225	2.413	1.041	39.989	22.667
226	2.415	1.045	39.990	22.668
227	2.417	1.051	39.990	22.669
228	2.419	1.055	39.990	22.670



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- 229 2.420 1.059 39.991 22.671
- 230 2.421 1.062 40.012 22.671
- 231 2.423 1.063 40.061 22.672
- 232 2.425 1.063 40.116 22.673
- 233 2.427 1.063 40.249 22.673
- 234 2.429 1.064 40.253 22.673
- 235 2.430 1.064 40.290 22.674
- 236 2.431 1.066 40.385 22.675
- 237 2.432 1.069 40.488 22.675
- 238 2.433 1.072 40.720 22.675
- 239 2.434 1.075 40.763 22.677
- c) Vehicles having composite hydrocarbon emission limitations of 2.00 grams per mile or greater, in Section 240. Table A or Section 240. Table B, shall use the hydrocarbon fast-pass standards contained in this subsection. Vehicles having and composite carbon monoxide emission limitations of 30.0 grams per mile or greater in Section 240. Table A or Section 240. Table B, shall use the carbon monoxide fast-pass standards contained in this subsection:

Second	Hydrocarbons Composite Phase 2	Carbon Monoxide Composite Phase 2
30	0.407 N/A	3.804 N/A
31	0.415 N/A	3.985 N/A
32	0.423 N/A	4.215 N/A
33	0.436 N/A	4.440 N/A
34	0.451 N/A	4.579 N/A
35	0.464 N/A	4.688 N/A
36	0.468 N/A	4.749 N/A
37	0.475 N/A	4.783 N/A
38	0.487 N/A	4.813 N/A
39	0.506 N/A	4.876 N/A
40	0.530 N/A	5.104 N/A
41	0.549 N/A	5.217 N/A
42	0.569 N/A	5.383 N/A
43	0.588 N/A	5.571 N/A
44	0.609 N/A	5.888 N/A
45	0.621 N/A	6.199 N/A
46	0.636 N/A	6.245 N/A
47	0.649 N/A	6.318 N/A
48	0.666 N/A	6.418 N/A
49	0.679 N/A	6.540 N/A
50	0.696 N/A	6.690 N/A
51	0.712 N/A	6.875 N/A
52	0.727 N/A	7.029 N/A
53	0.745 N/A	7.129 N/A
54	0.760 N/A	7.359 N/A
55	0.776 N/A	7.722 N/A
56	0.797 N/A	8.017 N/A

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57	0.814 N/A	8.249 N/A
58	0.826 N/A	8.425 N/A
59	0.837 N/A	8.563 N/A
60	0.849 N/A	8.686 N/A
61	0.862 N/A	8.804 N/A
62	0.872 N/A	8.916 N/A
63	0.887 N/A	9.025 N/A
64	0.895 N/A	9.138 N/A
65	0.903 N/A	9.250 N/A
66	0.925 N/A	9.354 N/A
67	0.933 N/A	9.457 N/A
68	0.945 N/A	9.575 N/A
69	0.959 N/A	9.728 N/A
70	0.970 N/A	9.938 N/A
71	0.980 N/A	10.140 N/A
72	0.988 N/A	10.222 N/A
73	0.997 N/A	10.261 N/A
74	1.022 N/A	10.278 N/A
75	1.037 N/A	10.290 N/A
76	1.051 N/A	10.715 N/A
77	1.064 N/A	10.790 N/A
78	1.075 N/A	10.844 N/A
79	1.087 N/A	10.921 N/A
80	1.097 N/A	11.010 N/A
81	1.105 N/A	11.090 N/A
82	1.114 N/A	11.136 N/A
83	1.136 N/A	11.136 N/A
84	1.160 N/A	11.165 N/A
85	1.182 N/A	11.191 N/A
86	1.201 N/A	11.205 N/A
87	1.217 N/A	11.211 N/A
88	1.233 N/A	11.211 N/A
89	1.248 N/A	11.211 N/A
90	1.262 N/A	11.220 N/A
91	1.271 N/A	11.220 N/A
92	1.279 N/A	11.294 N/A
93	1.287 N/A	11.332 N/A
94	1.295 N/A	11.355 N/A
95	1.302 N/A	11.383 N/A
96	1.309 N/A	11.410 N/A
97	1.316 N/A	11.433 N/A
98	1.325 N/A	11.516 N/A
99	1.339 N/A	11.820 N/A
100	1.356 N/A	12.104 N/A
101	1.365 N/A	12.344 N/A
102	1.378 N/A	12.781 N/A
103	1.397 N/A	13.472 N/A
104	1.420 N/A	14.405 N/A

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105	1.445	N/A	14.808	N/A	153
106	1.470	N/A	14.965	N/A	154
107	1.491	N/A	15.121	N/A	155
108	1.506	N/A	15.372	N/A	156
109	1.517	0.151	15.530	1.113	157
110	1.528	0.159	15.687	1.213	158
111	1.542	0.172	16.018	1.344	159
112	1.559	0.186	16.527	1.399	160
113	1.578	0.199	16.810	1.520	161
114	1.594	0.207	16.961	1.640	162
115	1.605	0.216	17.120	1.684	163
116	1.615	0.229	17.135	1.693	164
117	1.625	0.235	17.249	1.786	165
118	1.642	0.240	17.451	2.007	166
119	1.670	0.245	17.509	2.084	167
120	1.694	0.261	17.605	2.179	168
121	1.705	0.267	17.734	2.264	169
122	1.717	0.277	18.049	2.328	170
123	1.732	0.287	18.447	2.375	171
124	1.747	0.298	18.592	2.437	172
125	1.763	0.308	18.657	2.543	173
126	1.779	0.316	18.796	2.593	174
127	1.795	0.322	18.952	2.641	175
128	1.810	0.329	19.137	2.663	176
129	1.823	0.338	19.329	2.672	177
130	1.835	0.346	19.519	2.676	178
131	1.845	0.354	19.707	2.683	179
132	1.854	0.356	19.882	2.817	180
133	1.862	0.357	19.905	2.992	181
134	1.870	0.359	20.049	3.111	182
135	1.883	0.362	20.460	3.234	183
136	1.888	0.364	20.746	3.304	184
137	1.896	0.368	21.068	3.310	185
138	1.911	0.378	21.380	3.320	186
139	1.928	0.391	21.748	3.354	187
140	1.949	0.402	22.046	3.436	188
141	1.969	0.408	22.348	3.443	189
142	1.982	0.422	22.397	3.452	190
143	1.999	0.428	22.407	3.490	191
144	2.011	0.432	22.417	3.552	192
145	2.022	0.434	22.922	3.588	193
146	2.035	0.439	22.951	3.600	194
147	2.043	0.450	22.976	3.616	195
148	2.049	0.460	23.017	3.627	196
149	2.063	0.467	23.073	3.636	197
150	2.085	0.472	23.161	3.676	198
151	2.104	0.480	23.218	3.882	199
152	2.117	0.491	23.253	4.011	200

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153	2.127	0.503	23.337	4.047
154	2.138	0.505	23.425	4.067
155	2.152	0.515	23.534	4.081
156	2.168	0.522	23.652	4.116
157	2.186	0.527	23.739	4.251
158	2.205	0.537	24.606	5.099
159	2.224	0.549	25.615	5.383
160	2.242	0.568	26.073	6.362
161	2.268	0.586	28.496	7.926
162	2.308	0.610	29.772	8.429
163	2.352	0.648	31.056	9.201
164	2.406	0.677	33.351	10.825
165	2.421	0.699	34.890	12.291
166	2.435	0.720	35.937	13.366
167	2.470	0.738	37.012	14.428
168	2.501	0.767	37.892	15.318
169	2.537	0.828	39.028	15.699
170	2.571	0.855	40.406	16.073
171	2.625	0.869	41.379	16.475
172	2.657	0.885	42.033	17.158
173	2.683	0.900	42.432	17.532
174	2.701	0.941	42.742	17.965
175	2.717	0.979	43.399	18.242
176	2.732	1.002	43.895	18.283
177	2.756	1.025	44.227	18.480
178	2.781	1.047	44.926	19.576
179	2.811	1.065	45.256	20.015
180	2.853	1.089	45.553	20.203
181	2.898	1.109	45.753	20.433
182	2.946	1.133	46.210	21.025
183	2.988	1.158	47.017	21.882
184	3.023	1.184	48.185	22.204
185	3.057	1.209	48.741	22.859
186	3.076	1.222	49.462	23.533
187	3.101	1.231	50.313	24.281
188	3.120	1.239	51.285	25.078
189	3.136	1.254	52.076	25.276
190	3.151	1.278	52.857	25.578
191	3.163	1.300	52.876	25.859
192	3.209	1.313	53.067	25.985
193	3.223	1.324	53.777	26.153
194	3.237	1.340	54.242	26.582
195	3.263	1.367	54.489	27.067
196	3.302	1.387	54.601	27.456
197	3.338	1.402	54.912	27.805
198	3.372	1.417	55.588	28.070
199	3.390	1.432	56.266	28.590
200	3.428	1.446	56.617	28.914

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1)	Heading of the Part:	Emergency Medical Services and Trauma Center Code
2)	Code Citation:	77 Ill. Adm. Code 515
3)	Section Numbers:	Adopted Action:
	515.330	Amendment
	515.825	New Section
	515.920	Amendment
	515.930	Amendment
	515.935	Amendment
	515.940	Amendment
	515.945	Amendment
	515.950	Amendment
4)	Statutory Authority:	Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
5)	Effective date of amendments:	December 15, 2000
6)	Does this rulemaking contain an automatic repeal date?	No
7)	Does this rulemaking contain any incorporations by reference?	Yes
8)	A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.	
9)	Notice of Proposal was Published in Illinois Register:	June 23, 2000 - 24 Ill. Reg. 8483
10)	Has JCAR issued a Statement of Objection to this amendment?	No
11)	Difference between proposal and final version:	The following changes were made in response to comments received during the first notice or public comment period:
	1.	In the table of contents, "515.445 Pediatric Care" was added.
	2.	In the table of contents, "515.2035 Level I Pediatric Trauma Center" was added.
	3.	In the table of contents, "515.2045 Level II Pediatric Trauma Center" was added.
	4.	In the table of contents, "APPENDIX G Credentials of General/Trauma Surgeons" and "APPENDIX H Credentials of Emergency Department Physicians" were added.

201	3.470	1.460	56.863	29.063
202	3.493	1.477	57.204	29.502
203	3.509	1.492	57.371	29.697
204	3.522	1.501	57.487	29.713
205	3.533	1.510	57.728	29.783
206	3.550	1.522	58.097	29.942
207	3.578	1.561	58.572	30.284
208	3.607	1.585	59.024	30.755
209	3.630	1.597	59.321	31.287
210	3.658	1.607	59.715	31.549
211	3.701	1.627	60.045	31.820
212	3.745	1.645	60.453	32.250
213	3.778	1.656	60.935	32.546
214	3.814	1.663	61.307	32.808
215	3.825	1.669	61.666	33.060
216	3.835	1.674	62.148	33.204
217	3.844	1.685	62.532	33.341
218	3.853	1.700	62.546	33.414
219	3.864	1.704	62.559	33.514
220	3.874	1.706	62.570	33.640
221	3.891	1.709	62.846	33.692
222	3.928	1.711	63.097	33.711
223	3.966	1.714	63.150	33.733
224	4.008	1.718	63.150	33.770
225	4.010	1.721	63.150	33.796
226	4.012	1.723	63.150	33.810
227	4.016	1.726	63.150	33.821
228	4.019	1.729	63.150	33.839
229	4.057	1.731	63.150	33.865
230	4.065	1.733	63.150	33.894
231	4.071	1.735	63.150	33.918
232	4.073	1.743	63.150	33.944
233	4.075	1.749	63.150	33.985
234	4.077	1.753	63.153	34.014
235	4.079	1.757	63.159	34.032
236	4.081	1.762	63.173	34.051
237	4.083	1.767	63.193	34.067
238	4.084	1.772	63.214	34.079
239	4.085	1.776	63.233	34.085
				effective

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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5. In the Source Note, "585" and "June 10, 2000; amended at 24 Ill." were added.
6. In the Source Note, "Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_" was added.
7. In the table of contents, "(Renumbered)" was added after "515.2100 Pediatric Care."
8. In Section 515.825(a), "vehicles that are" was deleted.
9. A new subsection (b) was added in Section 515.825:
  - b Non-transport vehicles  
Non-transport vehicles are dispatched prior to dispatch of a transporting ambulance. These vehicles include ambulances and fire engines that contain the staff and equipment required by this Section. These vehicles shall be identified by the agency as a program plan amendment outlining the type and level of response that is planned. These vehicles shall be staffed 24 hours per day, every day of the year.
10. In Section 515.825, "b1" was changed to "11" and a period was added after "vehicles".
11. In Section 515.825(b)(1), "approved" was changed to "required".
12. In Section 515.825(b)(1), text after the period was deleted.
13. In Section 515.825, "c1" was changed to "21" and a period was added after "vehicles".
14. In Section 515.825(b)(2), text after "equipment" was deleted.
15. In Section 515.825, "d1" was changed to "c1".
16. In Section 515.825(c)(11), a space was inserted between "5" and "yds".
17. In Section 515.935(b)(3), "20" was deleted; strike-outs were removed from "five".
18. In Section 515.935(b)(3), "1 of which two hours must be at night," was added before "and" in line 2.
19. In Section 515.935(b)(3), the text after "orientation" was deleted.
20. In Section 515.935(b)(5)(G), "and" was stricken.

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21. In Section 515.935(b)(5)(H), the period was stricken and "i and" was added.
  22. In Section 515.935(b)(5), "I Crew Resource Management Training" was added.
  23. In Section 515.935(c)(3)(E), "and" was stricken.
  24. In Section 515.935(c)(3)(F), the period was stricken; "i and" was added.
  25. In Section 515.935(c)(3), "G Crew Resource Management Training" was added.
  26. In Section 515.940(a)(2)(C), "or Emergency Nursing Pediatric Course (ENPC)" was added.
  27. In Section 515.940(a)(2)(D), "(RN only)" was deleted; "or Trauma Nurse Core Curriculum" was added.
  28. In Section 515.940(a)(3)(B)(vii), "1 for rotor wing program only" was added.
  29. In Section 515.940(a)(4)(B)(v), "1 for rotor wing programs only" was added.
  30. In Section 515.940(b), "M.D." was changed to "licensed physician".
  31. In Section 515.945(c), "all" was changed to "rotor wing".
  32. In Section 515.945(i), "M.D." was changed to "licensed physician".
  33. In Section 515.950(b)(16), a space was inserted between "60" and "lbs".
- The following changes were made in response to comments and suggestions of the JCAR:
1. In Section 515.825, a closing parenthesis was added after "b".
  2. In Section 515.935(b)(5)(I) and (c)(3)(G), "Resource Management Training" was changed to "resource management training".
  3. In Section 515.940(a)(4)(B)(v), "Prehospital" was changed to "Pre-hospital".
  4. In Section 515.945(c), "rotor" was changed to "Rotor".

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5. In Section 515.950(b)(16), "27kg." was changed to "27 kg.".  
In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? All changes have been made as agreed upon.

- 13) Will these amendments replace emergency amendments currently in effect? No

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and purpose of the amendments:

Section 515.330 is being amended to require the Program Plan to include a policy on the use of latex-free supplies.

A new Section 515.825 is being added to establish requirements for alternate response vehicles. These vehicles will be dispatched simultaneously with ambulances and will assist with patient care prior to the arrival of the ambulance. Providers will be issued a provider license for a level of care; vehicles will not be licensed separately.

Section 515.920 is being amended to require Specialized Emergency Medical Service Vehicle programs to be a part of an EMS System that is located within the geographical area that the program serves.

Section 515.930 is being amended to provide more specific staffing requirements for helicopters and fixed-wing aircraft.

Section 515.935 is being amended to require a minimum of 20 hours of day/night area flight orientation and a minimum of five hours of night flight time for helicopter pilots.

Section 515.940 is being amended to include additional training requirements for aeromedical crew members.

Section 515.945 is being amended to update communications, staffing, and equipment requirements for aircraft vehicles.

Section 515.950 is being amended to specify required equipment for SEMVs.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson  
Division of Legal Services

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Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

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## NOTICE OF ADOPTED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

## PART 515

## EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

## SUBPART A: GENERAL

## Section

515.100 Definitions

515.125 Incorporated and Referenced Materials

515.150 Waiver Provisions

515.160 Violations, Hearings and Fines

515.170 Employer Responsibility

## SUBPART B: EMS REGIONS

## Section

515.200 Emergency Medical Services Regions

515.210 EMS Regional Plan Development

515.220 EMS Regional Plan Content

515.230 Resolution of Disputes Concerning the EMS Regional Plan

## SUBPART C: EMS SYSTEMS

## Section

515.300 Approval of New EMS Systems

515.310 Approval and Renewal of EMS Systems

515.315 Bypass Status Review

515.320 Scope of EMS Service

515.330 EMS System Program Plan

515.340 EMS Medical Director's Course

515.350 Data Collection and Submission

515.360 Approval of Additional Drugs and Equipment

515.370 Automated Defibrillation

515.380 Do Not Resuscitate (DNR) Policy

515.390 Minimum Standards for Continuing Operation

515.400 General Communications

515.410 EMS System Communications

515.420 System Participation Suspensions

515.430 Suspension, Revocation and Denial of Licensure of EMTs

515.440 State Emergency Medical Services Disciplinary Review Board

515.445 Pediatric Care

## SUBPART D: EMERGENCY MEDICAL TECHNICIANS

## Section

515.500 Emergency Medical Technician-Basic Training

515.510 Emergency Medical Technician-Intermediate Training

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## Emergency Medical Technician-Paramedic Training

515.530 EMT Testing and Fees

515.540 EMT Licensure

515.550 Scope of Practice - Licensed EMT

515.560 EMT-B Continuing Education

515.570 EMT-I Continuing Education

515.580 EMT-P Continuing Education

515.590 EMT License Renewals

515.600 EMT Inactive Status

515.610 EMT Reciprocity

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER,  
FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE,  
EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND  
TRAUMA NURSE SPECIALIST

## Section

515.700 EMS Lead Instructor

515.710 Emergency Medical Dispatcher

515.720 First Responder

515.725 First Responder - AED

515.730 Pre-Hospital Registered Nurse

515.740 Emergency Communications Registered Nurse

515.750 Trauma Nurse Specialist

515.760 Trauma Nurse Specialist Program Plan

## SUBPART F: VEHICLE SERVICE PROVIDERS

## Section

515.800 Vehicle Service Provider Licensure

515.810 EMS Vehicle System Participation

515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service

Provider License

515.825 Alternate Response Vehicle

515.830 Ambulance Licensing Requirements

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL  
SERVICES VEHICLE (SEMSV) PROGRAMS

## Section

515.900 Licensure of SEMSV Programs - General

515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure

515.920 SEMSV Program Licensure Requirements for All Vehicles

515.930 Helicopter and Fixed-Wing Aircraft Requirements

515.935 EMS Pilot Specifications

515.940 Aeromedical Crew Member Training Requirements

515.945 Aircraft Vehicle Specifications and Operation

515.950 Aircraft Medical Equipment and Drugs



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515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs  
 515.960 Aircraft Communications and Dispatch Center  
 515.965 Watercraft Requirements  
 515.970 Watercraft Vehicle Specifications and Operation  
 515.975 Watercraft Medical Equipment and Drugs  
 515.980 Watercraft Communications and Dispatch Center  
 515.985 Off-Road SEMSV Requirements  
 515.990 Off-Road Vehicle Specifications and Operation  
 515.995 Off-Road Medical Equipment and Drugs  
 515.1000 Off-Road Communications and Dispatch Center

## SUBPART H: TRAUMA CENTERS

Section  
 515.2000 Trauma Center Designation  
 515.2010 Denial of Application for Designation or Request for Renewal  
 515.2020 Inspection and Revocation of Designation  
 515.2030 Level I Trauma Center Designation Criteria  
 515.2035 Level I Pediatric Trauma Center  
 515.2040 Level II Trauma Center Designation Criteria  
 515.2045 Level II Pediatric Trauma Center  
 515.2050 Trauma Center Uniform Reporting Requirements  
 515.2060 Trauma Patient Evaluation and Transfer  
 515.2070 Trauma Center Designation Delegation to Local Health Departments  
 515.2080 Trauma Center Confidentiality and Immunity  
 515.2090 Trauma Center Fund  
 515.2100 Pediatric Care (Renumbered)

## SUBPART I: EMS ASSISTANCE FUND

Section  
 515.3000 EMS Assistance Fund Administration  
 APPENDIX A A Request for Designation (RFD) Trauma Center  
 APPENDIX B A Request for Renewal of Trauma Center Designation  
 APPENDIX C Minimum Trauma Field Triage Criteria  
 APPENDIX D Standing Medical Orders  
 APPENDIX E Minimum Prescribed Data Elements  
 APPENDIX F Template for In-House Triage for Trauma Centers  
 APPENDIX G Credentials of General/Trauma Surgeons  
 APPENDIX H Credentials of Emergency Department Physicians

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill.

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Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 23 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 21929, effective

## SUBPART C: EMS SYSTEMS

## Section 515.330 EMS System Program Plan

An Emergency Medical Services (EMS) System Program Plan shall contain the following information:

- a) The name, address and fax number of the Resource Hospital;
- b) The names and resumes of the following persons:
  - 1) The EMS Medical Director,
  - 2) The Alternate EMS Medical Director,
  - 3) The EMS Administrative Director,
  - 4) The EMS System Coordinator;
- c) The name, address and fax number of each Associate or Participating Hospital (see subsection (i) of this Section);
- d) The name and address of each ambulance provider participating within the EMS System;
- e) A map of the EMS System's service area indicating the location of all hospitals and ambulance providers participating in the System;
- f) Current letter(s) of commitment from the following persons at the Resource Hospital, which describe the commitment of the writer and his or her office to the development and ongoing operation of the EMS System, and which state the writer's understanding of and commitment to any necessary changes such as emergency department staffing and educational requirements:
  - 1) The Chief Executive Officer of the hospital,
  - 2) The Chief of the Medical Staff, and
  - 3) The Director of the Nursing Services;
- g) A letter of commitment from the EMS Medical Director that describes the EMSMD's agreement to:
  - 1) Be responsible for the ongoing education of all System personnel, including coordinating didactic and clinical experience;
  - 2) Develop written standing orders (treatment protocols, standard operating procedures) to be used in the EMSMD's absence and certify that all involved personnel will be knowledgeable in emergency care and capable of providing treatment and using communications equipment once the program is operational;
  - 3) Be responsible for supervising all personnel participating within the System, as described in the System Program Plan;
  - 4) Develop or approve one or more ambulance emergency run reports (run sheets) covering all types of ambulance runs performed by System ambulance providers;

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- 5) Ensure that the Department has access to all records, equipment and vehicles under the authority of the EMSMD during any Department inspection, investigation or site survey;
- 6) Notify the Department of any changes in personnel providing pre-hospital care in accordance with the EMS System Program Plan approved by the Department;
- 7) Be responsible for the total management of the System, including the enforcement of compliance with the System Program Plan by all participants within the System;
- 8) Ensure that a copy of the application for renewal (a form supplied by the Department) is provided to every EMT-B, EMT-I or EMT-P within the System who has not been recommended for relicensure by the EMS Medical Director; and
- 9) Be responsible for compliance with the provisions of Sections 515.400 and 515.410 of this Part;
- h) A description of the method(s) of providing EMS services, which includes:
  - 1) single vehicle response and transport;
  - 2) dual vehicle response;
  - 3) level of first response vehicle;
  - 4) level of transport vehicle;
  - 5) use of mutual aid agreements; and
  - 6) informing the caller requesting an emergency vehicle of the estimated time of arrival when this information is requested by the caller;
- i) A letter of commitment from each Associate or Participating Hospital within the System that includes the following:
  - 1) Signed statements by the hospital's Chief Executive Officer, Chief of the Medical Staff and Director of the Nursing Service describing their commitments to the standards and procedures of the System;
  - 2) A description of how the hospital will relate to the EMS System Resource Hospital, its involvement in the ongoing planning and development of the program, and its use of the education and continuing education aspects of the program;
  - 3) Only at an Associate Hospital, a commitment to meet the System's educational standards for ECRNs;
  - 4) An agreement to provide exchange of all drugs and equipment with all pre-hospital providers participating in the System or other EMS system whose ambulances transport to them;
  - 5) An agreement to use the standard treatment orders as established by the Resource Hospital;
  - 6) An agreement to follow the operational policies and protocols of the System;
  - 7) A description of the level of participation in the training and continuing education of pre-hospital personnel;
  - 8) An agreement to collect and provide relevant data as determined by the Resource Hospital;

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- 9) A description of the hospital's data collection and reporting methods and the personnel responsible for maintaining all data;
- 10) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey;
- 11) If the hospital is a participant in another System, a description of how it will interact within both Systems and how it will ensure that communications interference as a result of this dual participation will be minimized; and
- 12) The names and resumes of the Associate Hospital EMS Medical Director and Associate Hospital EMS Coordinator;
- j) A letter of commitment from each ambulance provider participating within the System, which indicates compliance with Section 515.810 of this Part;
- k) Descriptions and documentation of each communications requirement provided in Section 515.400 of this Part;
- l) The Program Plan shall consist of the EMS System Manual, which shall be provided to all System participants and shall include the following Sections:
  - 1) Education and Training
    - A) Content and curricula of training programs for EMT, Emergency Medical Dispatcher, First Responder, Pre-Hospital RN, ECRN and Lead Instructor candidates, including:
      - i) Entrance and completion requirements;
      - ii) Program schedules;
      - iii) Goals and objectives;
      - iv) Subject areas;
      - v) Didactic requirements, including skills laboratories;
      - vi) Clinical requirements;
      - vii) Testing formats;
    - B) Training program for Prearrival Medical Instructions, if applicable, including:
      - i) Entrance and completion requirements;
      - ii) Description of course materials;
      - iii) Testing formats;
    - C) Continuing education for EMTs, Pre-Hospital RNs, ECRNs, including:
      - i) System requirements (hours, types of programs, etc.);
      - ii) System program for System participants: types of activities covered (e.g., telemetry review, and morbidity and mortality conferences) and protocols for enrollment and completion;
      - iii) Requirements for approval of academic course work;
      - iv) Didactic programs offered by the System;
      - v) Clinical opportunities available within the System;
      - vi) Record-keeping requirements for participants, which must be maintained at the Resource Hospital;
    - D) Renewal Protocols

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- i) System examination requirements for EMTs, Pre-Hospital RNs, ECRNs;
  - ii) procedures for renewal of Pre-Hospital RN and ECRN approvals;
  - iii) Submission of transaction cards for EMTs meeting renewal requirements;
  - iv) Providing Department renewal application forms to EMTs who have not met renewal requirements according to System records;
- E) System participant education and information, including:
- i) Distribution of System Manual amendments;
  - ii) In-services for policy and protocol changes;
  - iii) Methods for communicating updates on System and Regional activities, and other matters of medical, legal and/or professional interest;
  - iv) Locations of library/resource materials, forms, schedules, etc.;
- F) A plan for phasing in Emergency Medical Dispatcher and First Responder registration requirements over a five-year period for Emergency Medical Dispatchers and First Responders who choose to be included in the Program Plan (see Sections 515.710 and 515.720 of this Part);
- G) A System may require that up to one-half of the continuing education hours that are required toward relicensure, as determined by the Department, be earned through attendance at system-taught courses;
- H) A didactic continuing education course that has received a State site code shall be accepted by the System, subject only to the requirements of subsection (1)(1)(C) of this Section;
- 2) Drugs and Equipment
    - A) A list of all drugs and equipment required for each type of System vehicle;
  - 3) Procedures for obtaining replacements at System hospitals;
    - A) Personnel Requirements for EMTs
    - B) Minimum staffing for each type and level of vehicle;
    - C) Guidelines for EMT patient interaction;
    - D) In-Field Protocols, including medical-legal policies but not limited to:
      - A) The Regional Standing Medical Orders;
      - B) System Standing Medical Orders as listed in Section 515.Appendix D;
    - E) Appropriate interaction with law enforcement on the scene;
    - F) When and how to notify a coroner or medical examiner;
    - G) Appropriate interaction with an independent physician/nurse on the scene;
    - H) The use of restraints;
    - I) Consent for treatment of minors;

- H) Patient choice and refusal regarding treatment, transport, and/or destination;
  - I) The duty to perform all services without unlawful discrimination;
  - J) Offering immediate and adequate information regarding services available to victims of abuse, for any person suspected to be a victim of domestic abuse;
  - K) Patient abandonment;
  - L) Emotionally disturbed patients;
  - M) Patient confidentiality and release of information;
  - N) Durable power of attorney for health care; and
  - O) Do Not Resuscitate (DNR) orders (see Section 515.380 of this Part); and
  - P) A policy concerning the use of latex-free supplies;
- 5) Communications standards and protocols including:
- A) The information contained in the System Program Plan relating to the requirements of Sections 515.410(a)(1), (2), (3) and (4) and 515.390(b) and (g) of this Part;
  - B) Protocols ensuring that physician direction and voice orders to EMS vehicle personnel and other hospitals participating in the System are provided from the operational control point of the Resource or Associate Hospital;
  - C) Protocols ensuring the voice orders via radio and using telemetry shall be given by or under the direction of the EMS Medical Director or the EMSMD's designee, who shall be either an ECRN, or physician; and
  - D) Protocols defining when an ECRN should contact a physician;
- 6) Quality improvement measures for both adult and pediatric patient care should be performed on a quarterly basis and be available upon Department request; ambulance operation and System training activities, including but not limited to monitoring training activities to ensure that the instructions and materials are consistent with United States Department of Transportation training standards for EMTs and Section 3.50 of the Act; unannounced inspections of pre-hospital services; and peer review;
- 7) Data collection and evaluation methods that include:
- A) The process that will facilitate problem identification, evaluation and monitoring in reference to patient care and/or reporting discrepancies from hospital and pre-hospital providers;
  - B) A copy of the pre-hospital reporting form;
  - C) A sample of the information and data to be reported to the Department summarizing System activity (see Section 515.350 of this Part);
- 8) Operational policies that delineate the respective roles and responsibilities of all providers in the System regarding the provision of emergency service, including:



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- A) Resource Hospital overrides (situations in which Associate Hospital orders are overruled by the Resource Hospital);
- B) Infectious disease and disinfection procedures, including the policy on significant exposure;
- C) Reporting and documentation of problems; and
- D) Protocols for ILS/ALS System personnel to assess the condition of a patient being initially treated in the field by BLS personnel, for the purpose of determining whether a higher level of care is warranted and transfer of care of the patient to the ILS or ALS personnel is therefore appropriate. Such protocols shall include a requirement that neither the assessment nor the transfer of care can be initiated if it would appear to jeopardize the patient's condition, and shall require that such activities of the System personnel be done under the immediate direction of the EMS Medical Director or designee;
- 9) Any procedures regarding disciplinary and/or suspension decisions and the review of those decisions that the System has elected to follow in addition to those required by the Act;
- 10) Any System policies regarding abuse of controlled substances or conviction of a felony crime by System personnel whether on or off duty;
- 11) The responsibilities of the EMS Coordinator(s), as designated by the EMS Medical Director, including data evaluation, supervision of clinical, didactic and field experience training, and physician and nurse education as required; and
- 12) The responsibilities of the EMS Medical Director;
- m) A written protocol for the bypassing of or diversion to a hospital, trauma center or Regional trauma center other than the nearest hospital, Regional trauma center or trauma center unless the medical benefits to the patient reasonably expected from the provision of appropriate medical treatment at a more distant facility outweigh the increased risks to the patient from transport to the more distant facility, or the transport is in accordance with the System's protocols for patient choice or refusal. (Section 3.20(c)(5) of the Act) The bypass status policy should include a statement that for any life-threatening condition a patient may be transported to the closest facility, whether or not that facility is on bypass status. In addition, a hospital can declare a resource limitation, which is further outlined in the System Plan, for the following conditions:
- 1) There are no critical or monitored beds available in the hospital; or
  - 2) An internal disaster occurs in the hospital;
- n) Bypass status may not be honored if three or more hospitals in a geographic area are on bypass status and transport time by an ambulance to the nearest facility exceeds 15 minutes.

(Source: Amended at 24 Ill. Reg. 102.10, effective

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## SUBPART F: VEHICLE SERVICE PROVIDERS

## Section 515.825 Alternate Response Vehicle

- a) Ambulance assistance vehicles
- Ambulance assistance vehicles are dispatched simultaneously with an ambulance and assist with patient care prior to the arrival of the ambulance. These assistance vehicles include fire engines, trucks, squad cars or chief's cars that contain the staff and equipment required by this Section. These vehicles shall not function as assist vehicles if staff and equipment required by this Section are not available. These vehicles shall be identified by the agency as a program plan amendment outlining the type and level of response that is planned. The vehicle shall not be a primary response vehicle but a supplementary vehicle to support EMS services. The vehicle shall be dispatched only if needed. Ambulance assistance vehicles shall be classified as either:
- 1) Advanced ambulance assistance vehicles. These vehicles shall be staffed with a minimum of one EMT-P and shall have all of the required equipment; or
  - 2) Intermediate ambulance assistance vehicles. These vehicles shall be staffed with a minimum of one EMT-I and shall have all of the required equipment; or
  - 3) Basic ambulance assistance vehicles. These vehicles shall be staffed with a minimum of one EMT-B and shall have all of the required equipment; or
  - 4) First Responder assistance vehicles. These vehicles shall be staffed with a minimum of one First Responder and shall have all of the required equipment.
- b) Non-transport vehicles
- Non-transport vehicles are dispatched prior to dispatch of a transporting ambulance. These vehicles include ambulances and fire engines that contain the staff and equipment required by this Section. These vehicles shall be identified by the agency as a program plan amendment outlining the type and level of response that is planned. These vehicles shall be staffed 24 hours per day, every day of the year.
- 1) ALS/IUS non-transport vehicles. These vehicles shall have a minimum of either one EMT-P, or one EMT-I and one other EMT-B, and shall have all of the required equipment.
  - 2) BLS non-transport vehicles. These vehicles shall have a minimum of two EMT-Bs and have all of the required equipment.
- c) Equipment requirements
- Each vehicle used as an alternate response vehicle shall meet the following equipment requirements, as determined by the Department by an inspection.

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- 1) Full portable oxygen cylinder
- 2) Dial flowmeter/regulator for 15 liters per minute
- 3) Delivery tubes
- 4) Adult, child and infant masks
- 5) Adult squeeze bag and valve, with adult and child masks
- 6) Child squeeze bag and valve, with child and infant masks
- 7) Airways, oropharyngeal - adult, child and infant
- 8) Airways, nasopharyngeal with lubrication (sizes 12-30F)
- 9) Manually operated suction device
- 10) Triangular bandages or slings
- 11) Roller bandages, self-adhering (4" by 5 yds)
- 12) Trauma dressings
- 13) Sterile gauze pads (4" by 4")
- 14) Vaseline gauze (3" by 8")
- 15) Bandage shears
- 16) Adhesive tape rolls
- 17) Blanket
- 18) Long backboard
- 19) Cervical collars - adult, child and infant
- 20) Extremity splints - adult/child, long/short
- 21) Adult/child/infant blood pressure cuffs and gauge
- 22) Stethoscope
- 23) Burn sheet, individually wrapped
- 24) Sterile solution (1,000cc), plastic bottles or bags
- 25) Obstetrical kit, sterile with head cover
- 26) Cold packs
- 27) EMS run reports
- 28) Nonporous disposable gloves
- 29) Eye/nose/mouth protection or face shields
- 30) Flashlight
- 31) Equipment to allow communication with hospital
- 32) ILS/ALS System-approved equipment
  - A) Drug box
  - B) Airway equipment
  - C) Monitor/Defibrillator

e) Registration of non-transport agencies  
Each non-transport provider shall complete and submit to the Department one of the following: the First Responder Provider Initial EMS System Application (Form First 10/97), the Non-Transport Provider EMS System Application (Form NT 5/97), or the Non-Transport Provider Application (Form NT 6/99).

f) Inspection of non-transport EMS providers  
Initial inspections will be completed by the Regional EMS Coordinator. Thereafter, non-transport ambulance assist providers shall perform annual self-inspections, using forms provided by the Department, and shall submit the form to the Department upon completion of the inspection. The Regional EMS Coordinator will perform inspections randomly or as the result of a complaint.

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- g) Issuance and renewal of license  
Non-transport providers shall be issued a provider license that lists a number for each level of care approved. Licenses will not be issued for individual non-transport vehicles. Providers shall inform the EMS System and the Department of any modifications to the application, using the System Modification forms (sys-mod). Licenses will be issued for one year and will be renewed upon completion of the self-inspection.

(Source: Added at 24 Ill. Reg. 108.0, effective \_\_\_\_\_)

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

Section 515.920 SEMSV Program Licensure Requirements for All Vehicles

- a) The SEMSV Program shall be part of a Department-approved EMS System that is located within the geographical area that the program serves.
- b) The SEMSV Program shall meet and comply with all State and federal requirements governing the specific vehicles employed in the program. (See Section 515.930, 515.945, or 515.970 of this Part.)
- c) The SEMSV Program shall comply with this Part during its hours of operation. The SEMSV Program shall operate 24 hours per day, every day of the year, in accordance with weather conditions, except when the service is committed to another medical emergency request, or is unavailable due to maintenance requirements.
- d) The SEMSV Program shall provide pre-hospital emergency services within its service area on a per-need basis without regard to the patient's ability to pay for such service.
- e) The SEMSV Program shall be supervised and managed by a Medical Director, who shall be a physician who has met at least the following requirements:
  - 1) Educational experience in those areas of medicine that are commensurate with the mission statement of the medical service (e.g., trauma, pediatric, neonatal, obstetrics) or utilize specialty physicians as consultants when appropriate;
  - 2) Training and experience in Advanced Cardiac Life Support (ACLS), such as the American Heart Association's ACLS course or equivalent education;
  - 3) Training and experience in Pediatric Advanced Life Support (PALS), such as the American Heart Association PALS course or ASPP/American Academy of Pediatrics Advanced Pediatric Life Support Course or equivalent education;
  - 4) Training and experience in Advanced Trauma Life Support (ATLS), such as the American College of Surgeons' ATLS course or equivalent education;
  - 5) In programs using air vehicles, documentation, such as



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certificates or proof of completion in course work designed to bring about:

- A) Experience and knowledge in inflight treatment modalities;
  - B) Experience and knowledge in altitude physiology;
  - C) Experience and knowledge in infection control as it relates to airborne and intra-facility transportation; and
  - D) Experience and knowledge in stress management techniques;
- 6) In programs using watercraft, documentation, such as certificates of completion in course work designed to bring about:
- A) Experience and knowledge in treating persons suffering from drowning (cold, warm, fresh and salt water); and
  - B) Experience and knowledge in diving accident physiology and treatment.

(Source: Amended at 24 Ill. Reg. 123.0, effective \_\_\_\_\_)

**Section 515.930 Helicopter and Fixed-Wing Aircraft Requirements**

In addition to the requirements specified in Sections 515.900 and 515.920 of this Part, an SEMSV Program using helicopters or fixed-wing aircraft shall submit a Program Plan that includes the following:

- a) Documentation of the Medical Director's credentials as required by Section 515.920(e) of this Part, and a statement signed by the Medical Director containing his or her commitment to the following duties and responsibilities:

- 1) Supervising and managing the program;
- 2) Supervising and evaluating the quality of patient care provided by the aeromedical crew;
- 3) Developing written treatment protocols and standard operating procedures to be used by the aeromedical crew during flight;
- 4) Developing and approving a list of equipment and drugs to be available on the SEMSV during patient transfer;
- 5) Providing periodic review, at least monthly, of patient care provided by the aeromedical crew;
- 6) Providing for the continuing education of the aeromedical team (see Section 515.940(a)(2));
- 7) Providing medical advice and expertise on the use, need and special requirements of aeromedical transfer;
- 8) Submitting documentation assuring the qualifications of the aeromedical crew;
- 9) Notifying the Department when the primary SEMSV is unavailable in excess of 24 hours, stating the reason for unavailability, the expected date of return to service, and the provisions made, if any, for replacement vehicles;
- 10) Assuring appropriate staffing of the SEMSV, with a minimum of one EMS pilot and one aeromedical crew member for Basic Life Support missions. There shall be two aeromedical crew members for

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Advanced Life Support and critical care transports, one of which must be a registered nurse or physician with completion of training required by Section 515.940. Two EMS pilots shall be used for fixed-wing aircraft or helicopters requiring such staffing. Additional aeromedical personnel may be required at the discretion of the SEMSV Medical Director. The Medical Director shall provide the Department with a list of all approved pilots and aeromedical crew members, and shall update the list whenever a change in such personnel is made;

- b) The SEMSV Medical Director's list of required medical equipment and drugs for use on the aircraft (see Section 515.950);
- c) The SEMSV Medical Director's treatment protocols and standard operating procedures;
- d) The curriculum and requirements for orientation and training (see Section 515.940(a)(2), (3) and (4), including mandatory continuing education for all aeromedical crew members consisting of at least 16 hours in specialized aeromedical transportation topics, eight hours of which may include quality assurance reviews;
- e) A description of the communications system accessing the aeromedical dispatch center, the medical control point, receiving and referring agencies (see Section 515.960 of this Part);
- f) A description and map of the service area for each vehicle;
- g) A description of the EMS System's method of providing emergency medical services using the SEMSV Program; and
- h) The identification number and description of all vehicles used in the program.

(Source: Amended at 24 Ill. Reg. 123.0, effective \_\_\_\_\_)

**Section 515.935 EMS Pilot Specifications**

- a) EMS pilot approval for helicopters and fixed-wing aircraft shall be valid for a period of one year and may be renewed by the Medical Director if the pilot has completed renewal training, which shall include but is not limited to the requirements of subsections (b)(1) and (5)(A) through (H) or subsections (c)(1) and (3)(A) through (F) of this Section.

1) For helicopter programs only:

- A) Four EMS pilots per helicopter, excluding relief support, shall be dedicated to the SEMSV Program.
- B) An EMS pilot assigned to SEMSV duty shall be physically present at the aircraft base to assure timely response.
- C) An EMS pilot assigned to SEMSV duty shall be provided with work space to carry out assigned duties. In the event that duty time exceeds 12 continuous hours, separate sleeping quarters shall be provided to assure physical rest.

2) For fixed-wing programs only: One EMS pilot per aircraft who



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will respond within one-half hour from the receipt of the request.

- b) Each EMS pilot assigned to a helicopter shall be approved by the Medical Director and shall meet the following requirements:

1) Compliance with subparts E and F of Air Taxi Operations and Commercial Operators (14 CFR 135).

2) A minimum of 2000 rotorcraft flight hours as pilot-in-command, including:

- A) Factory school or equivalent (ground and flight);
- B) Five hours as pilot-in-command or at the controls prior to EMS missions if transitioning from a single to a single engine helicopter, from a twin to a single engine helicopter, or from a twin to a twin engine helicopter;
- C) Ten hours as pilot-in-command or at the controls prior to EMS missions if transitioning from a single to a twin engine aircraft.

3) A minimum of five hours day/night area flight orientation, of which two hours must be at night, and, in the judgement of the SEMSV Medical Director, special terrain flight orientation.

4) Instrument Flight Rules (IFR) certification by the Federal Aviation Administration (IFR Currency is recommended).

5) Provide documentation of completion of training that includes but is not limited to the following:

- A) Judgement and decision making;
- B) Local routine operating procedures, including day and night operations;
- C) Flight by reference to instruments, including Instrument Meteorological Conditions (IMC) recovery;
- D) Regional area weather phenomena;
- E) Area terrain hazards;
- F) Scene procedures;
- G) EMS System and SEMSV Program communications requirements; and
- H) Orientation to each hospital/pre-hospital health care system affiliated with the SEMSV program; and:

I) Crew resource management training.

- c) Each pilot assigned to a fixed-wing aircraft shall be approved by the Medical Director and shall meet the following requirements:

1) Compliance with subparts E and F of Air Taxi Operations and Commercial Operators (14 CFR 135);

2) The pilot shall have a commercial pilot certificate with a minimum of 2000 flight hours as pilot-in-command and an airplane multi-engine land instrument rating, with a minimum of 250 hours of instrument flying time, to include no more than 125 hours of simulated time and 100 night flight hours and 25 hours in the specific make and model of aircraft before flying as the pilot-in-command on patient missions, or completion of a commercially established training program for the specific make

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and model air craft and the successful completion of the check ride;

- 3) Provide documentation of completion of training that includes but is not limited to the following:

- A) Judgement and decision making;
- B) Local routine operating procedures, including day and night operations;
- C) Flight by reference to instruments, including Instrument Meteorological Conditions (IMC) recovery;
- D) Regional area weather phenomena;
- E) Area terrain hazards; and
- F) EMS System and SEMSV Program communications requirements; and-
- G) Crew resource management training.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 515.940 Aeromedical Crew Member Training Requirements

- a) Except as provided for by subsection (b) of this Section, each aeromedical crew member assigned to a helicopter or fixed-wing aircraft shall be approved by the Medical Director and shall meet the following requirements:

- 1) Be an EMT-P, registered nurse or a physician.
- 2) Each crew member must be current in, or obtain within six months of hire:

- A) Advanced Cardiac Life Support (ACLS)
- B) Basic Trauma Life Support (BTLS) or Pre-Hospital Trauma Life Support (PHTLS)
- C) Pediatric Advanced Life Support (PALS) or Emergency Nursing Pediatric Course (ENPC)
- D) Trauma Nurse Specialist (TNS) or Trauma Nurse Core Curriculum
- E) Neonatal Resuscitation Program (NRP)

3) Initial training program requirements for full-time and part-time Critical Care and ALS providers. Each Critical Care and ALS provider must successfully complete a comprehensive training program or show proof of recent experience/training in the categories listed below prior to assuming independent responsibility.

- A) Didactic Component - Shall be specified and appropriate for the mission statement and scope of the medical transport service:

- i) Advanced airway management.
- ii) Altitude physiology/stressors of flight if involved in rotor wing or fixed wing operations.
- iii) Anatomy, physiology and assessment for adult,

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- pediatric and neonatal patients.
- iv) Aviation - aircraft orientation/safety and in-flight procedures/general aircraft safety including depressurization procedures for fixed wing (as appropriate). Ambulance orientation/ safety and procedures as appropriate.
- v) Cardiac emergencies and advanced cardiac critical care.
- vi) Hemodynamic monitoring, pacemakers, automatic implantable cardiac defibrillator (AICD), intra-aortic balloon pump, and central lines, pulmonary artery and arterial catheters.
- vii) Disaster and triage.
- viii) EMS radio communications.
- ix) Environmental emergencies.
- x) Hazardous materials recognition and response.
- xi) High risk obstetric emergencies (bleeding, medical, and trauma).
- xii) Infection control.
- xiii) Metabolic/endocrine emergencies.
- xiv) Multi-trauma (chest, abdomen, facial).
- xv) Neonatal emergencies (respiratory distress, surgical, cardiac).
- xvi) Oxygen therapy in the medical transport environment - Mechanical ventilation and respiratory physiology for adult, pediatric and neonatal patients as appropriate to the mission statement and scope of care of the medical transport service.
- xvii) Pediatric medical emergencies.
- xviii) Pediatric trauma.
- xix) Pharmacology.
- xx) Quality Management - Didactic education that supports the medical transport service mission statement and scope of care (e.g., adult, pediatric, neonatal).
- xxi) Respiratory emergencies.
- xxii) Scene management/rescue/extrication (rotor wing and ground ambulance).
- xxiii) Stress recognition and management.
- xxiv) Survival training.
- xxv) Record keeping.
- xxvi) Thermal, chemical and electrical burns.
- xxvii) Legal aspects.
- xxviii) Toxicology.
- B) Clinical Component - Clinical experiences shall include, but not be limited to, the following (experiences shall be specific and appropriate for the mission statement and scope of care of the medical transport service):
- i) Critical care.

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- ii) Emergency care.
- iii) Invasive procedures or mannequin equivalent for practicing invasive procedures.
- iv) Neonatal intensive care.
- v) Obstetrics - five deliveries.
- vi) Pediatric critical care.
- vii) Pre-hospital care, for rotor wing programs only.
- viii) Tracheal intubations - 10 on live patients.
- 4) Continuing education/staff development must be provided and documented for all full-time and part-time Critical Care and ALS providers. These shall be specific and appropriate for the mission statement and scope of care of the medical transport service.
- A) Didactic continuing education must include:
- i) Aviation - safety issues (if involved in rotor wing or fixed wing operations).
  - ii) State EMS rules regarding ground and air transport.
  - iii) Altitude physiology/stressors of flight (if involved in both rotor wing and fixed wing operations).
  - iv) Critical care courses.
  - v) Emergency care courses.
  - vi) Hazardous materials recognition and response.
  - vii) Infection control.
  - viii) Stress recognition and management.
  - ix) Survival training.
  - x) Equipment reviews consistent with program scope and mission.
- B) Clinical and laboratory continuing education must include:
- i) Emergency/trauma care.
  - ii) Critical care (adult, pediatric, neonatal).
  - iii) Invasive procedure labs.
  - iv) Labor and delivery.
  - v) Pre-hospital experience, for rotor wing programs only.
  - vi) Skills maintenance program documented to comply with number of skills required in a set period of time according to policy of the medical transport service (i.e., endotracheal intubations, chest tubes).
  - vii) Since endotracheal intubation is an essential life saving measure, no less than five live successful intubations per year are required for each Critical Care or ALS provider. Success rates for all live intubations are documented and monitored through the quality management process.
  - viii) Live, mannequin or cadaver intubation experience within the following age ranges if served by the air medical/ground interfacility service: birth to 12 months; 12 months to 6 years; and 6 years and older.
- 2) Provide documentation of completion of didactic training that

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includes-but-is-not-limited-to-the-following:

- A) Advanced-life-support
- B) Cardiac-emergencies
- C) Traumatic-emergencies
- D) Pediatric-emergencies
- E) Obstetrical-emergencies
- F) Neonatal-emergencies
- G) Psychiatric-emergencies
- H) Crisis-intervention
- I) Infection-control
- J) Attitude-physiology
- K) Advanced-surgical-and-airway-management-techniques
- L) Environmental-emergencies
- M) Flight-safety
- N) Aircraft-emergencies
- O) Radio-communications
- P) Rescue-and-survival-techniques
- Q) Record-keeping-and
- R) Legal-aspects.

3) Provide---documentation---of---completion-of---clinical---training appropriate-for-the-scope-of-care-of-the-air-medical-service-that includes-but-is-not-limited-to-the-following:

- A) Emergency/trauma-care
- B) Critical/intensive-care-(adult,-pediatric,-neonatal)
- C) Obstetrics
- D) Invasive-procedure-tabs,-including-tracheal-intubations,-and
- E) Pre-hospital-care.

5) 4) Yearly completion of the continuing education requirements as described in Section 515.930(d) of this Part.

b) In addition to at least one aeromedical crew member for Basic Life Support who has met the requirements of subsection (a) of this Section, and two aeromedical crew members, one of whom must be an R.N. or licensed physician, for Advanced Life Support or critical care transport missions who have met the requirements of subsection (a) of this Section, the Medical Director may approve and assign additional crew members to a helicopter or fixed-wing aircraft. Such additional crew members shall meet the following requirements:

- 1) Provide documentation of completion of training that includes but is not limited to the following:
  - A) General patient care in-flight,
  - B) Aircraft emergencies,
  - C) Flight safety,
  - D) EMS System and SSMV Program communications,
  - E) Use of all patient care equipment, and
  - F) Rescue and survival techniques.
- 2) Yearly completion of the continuing education requirements as described in Section 515.930(d) of this Part.

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(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 515.945 Aircraft Vehicle Specifications and Operation

- a) All vehicles shall meet the requirements of subparts A, B, C, and D of Air Taxi Operations and Commercial Operators (14 CFR 135).
- b) All vehicles shall have communication equipment to permit both internal crew and air-to-ground exchange of information between individuals and agencies, including at least those involved in SSMV medical control within the EMS System, the flight operations center, air traffic control and law enforcement agencies. Helicopters must be able to communicate with law enforcement agencies, EMS providers, fire agencies, and referring and receiving facilities.
- c) Rotor wing vehicles shall be equipped with a Medical Emergency Radio Communications for Illinois (MERCII) radio.
- d) All vehicles shall be designed to allow the loading and unloading of the patient without rotating the patient more than 30 degrees along the longitudinal axis or 45 degrees along the lateral axis.
- e) All vehicles shall be climate controlled to prevent temperature extremes that would adversely affect patient care in the judgement of the Medical Director.
- f) All vehicles shall have interior lighting to permit patient care to be given and patient status to be monitored without interfering with the pilot's vision.
- g) All vehicles shall carry survival equipment including but not limited to:
  - 1) Two sources of heat or fire,
  - 2) Two forms of signaling device,
  - 3) Equipment to provide shelter: blanket, nylon cord and adhesive tape,
  - 4) Knife and fishing kit, and
  - 5) Food and water supply.
- h) All patients shall be restrained to the helicopter or fixed-wing aircraft litter in order to assure the safety of the patient and crew.
- i) For helicopter programs:
  - 1) There shall be at least one single-engine aircraft.
  - 2) Each vehicle shall be staffed with at least one EMS pilot and at least one aeromedical crew member for Basic Life Support missions. There shall be two aeromedical crew members for Advanced Life Support and critical care transports, one of which shall be an R.N. or licensed physician.
  - 3) Each vehicle shall be equipped with flight reference instruments to allow recovery from inadvertent Instrument Flight Rules (IFR) situations.
  - 4) Each vehicle shall be equipped with a searchlight pivoting at least 180 degrees horizontal and 90 degrees vertical, controlled by the pilot without removing hands from the flight controls.



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The searchlight shall be at least 400,000 candlepower, mounted and operated in accordance with requirements of the Federal Aviation Administration (14 CFR 135).

5) The cockpit shall be isolated by a protective barrier to minimize inflight distraction or interference.

6) All medical equipment, supplies and personnel shall be secured and/or restrained.

7) All equipment, litters/stretchers and seating shall be arranged so as not to block rapid egress by personnel or patient from the aircraft and shall be affixed or secured in racks or compartments approved by the Federal Aviation Administration (14 CFR 135) or by straps.

**1)†† For fixed-wing aircraft programs:**

1) There shall be at least one twin-engine aircraft.

2) Each vehicle shall be staffed with at least one EMS pilot and at least one aeromedical crew member for Basic Life Support missions. There shall be two aeromedical crew members for Advanced Life Support and critical care transports.

3) The aircraft shall be IFR equipped and certified.

4) All equipment, litters/stretchers and seating shall be arranged so as not to block rapid egress by personnel or patient from the aircraft and shall be affixed or secured in approved racks or compartments or by strap restraint.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 515.950 Aircraft Medical Equipment and Drugs**

a) Each helicopter or fixed-wing aircraft shall be equipped with medical equipment and drugs that are appropriate for the various types of missions to which it will be responding, as specified by the SEMSV Medical Director.

b) The SEMSV Medical Director shall submit for approval to the Department a list of medical equipment and drugs to be taken on any particular mission based on patient type (adult, child, infant), medical condition (high risk infant, cardiac, burn, etc.) and anticipated treatment needs en route. This shall include, but not be limited to:

- 1) Cardiac monitor with extra battery;
- 2) Defibrillator that is adjustable for all age groups;
- 3) External pacemaker;
- 4) Advanced airway equipment to include laryngoscope and tracheal intubation supplies for all age ranges;
- 5) Mechanical ventilator available;
- 6) Two suction sources; one must be portable;
- 7) Pulse oximeter;
- 8) End tidal CO<sub>2</sub> - electronic or chemical;
- 9) Automatic blood pressure monitor;

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10) Doppler with dual capacity to obtain fetal heart tones as well as systolic blood pressure;

11) Invasive pressure monitor;

12) Intravenous pumps with adjustable rates for appropriate age groups;

13) Two sources of oxygen; one must be portable;

14) A stretcher that is large enough to carry the 95th percentile adult, full length in supine position, and that is rigid enough to support effective cardiopulmonary resuscitation and has the capability of raising the head 30°;

15) Electrical power source provided by an inverter or appropriate power source of sufficient output to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical aircraft equipment;

16) If the patient weighs less than 60 lbs. (27 kg.) an appropriate (for height and weight) restraint device must be used, which must be secured by a device approved by the Federal Aviation Administration (14 CFR 135); and

17) Isolette.

c) The Department's approval shall be based on, but not limited to:

- 1) Length of time of the mission;
- 2) Possible environmental or weather hazards;
- 3) Number of individuals served; and
- 4) Medical condition of individuals served.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF ADOPTED RULES

## NOTICE OF ADOPTED RULES

1) Heading of the Part: Office of Secretary of State Ethics Commission Complaint Policies and Procedures

indicated in the agreements issued by JCAR? Yes

2) Code Citation: 2 Ill. Adm. Code 568

13) Will this rulemaking replace an emergency rule currently in effect? No

3) Section Numbers: Adopted Action:

14) Are there any amendments pending on this Part? No

568.100 New

568.110 New

568.120 New

568.130 New

568.135 New

568.140 New

568.150 New

568.160 New

568.170 New

568.180 New

568.190 New

568.200 New

568.210 New

568.220 New

568.230 New

568.240 New

568.250 New

568.260 New

568.270 New

568.280 New

568.290 New

15) Summary and Purpose of Rulemaking: These rules set forth procedures for the Secretary of State Ethics Commission pursuant to State Gift Ban Act.

16) Information and questions regarding these adopted rules shall be directed to:

Stephan J. Roth, Senior Legal Advisor  
Secretary of State Office  
176 Howlett Building  
Springfield, IL 62756  
(217) 782-1750

The full text of the adopted rules begins on the next page:

4) Statutory Authority: State Gift Ban Act, 5 ILCS 425

5) Effective Date of Rulemaking: December 19, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 28, 2000, 24 Ill. Reg. 6651

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as

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NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION  
CHAPTER III: SECRETARY OF STATE

PART 568

OFFICE OF SECRETARY OF STATE ETHICS COMMISSION  
COMPLAINT POLICIES AND PROCEDURES

SUBPART A: COMPLAINT POLICIES

Section	Policy
568.100	Definitions
568.110	Form of Complaint and Designations
568.120	Standard Information in Complaints
568.135	Verification
568.140	Jurisdiction
568.150	Official Receiving Clerk
568.160	Filing of Complaint/Determination of Sufficiency and Probable Cause
568.170	Procedures Following Determination of Probable Cause
568.180	Frivolous Complaints
568.190	Ethics Commission Members and Terms of Office

SUBPART B: COMMISSION PROCEDURES

Section	Meetings of the Commission
568.200	Committees
568.210	Informal Action by Committee Members
568.220	Telephonic Meetings
568.230	Presumption of Assent
568.240	Resignations, Removal and Vacancies
568.250	Officers of the Commission
568.260	Conflict of Interest
568.270	Robert's Rules of Order
568.280	Effective Date

AUTHORITY: Implementing and authorized by the State Gift Ban Act [5 ILCS 425].

SOURCE: Adopted at 24 Ill. Reg. 10145-2, effective

SUBPART A: COMPLAINT POLICIES

Section 568.100 Policy

- a) It is the policy of the Office of Secretary of State Ethics Commission to address complaints of violations of the State Gift Ban Act ("Act") and to render decisions uniformly on the allegations presented to it.

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- To further this purpose, the Office of Secretary of State Ethics Commission has developed the procedures described in this part to address complaints which are filed with it.
- b) All employees and officers of the Secretary of State who receive information relating to, or who witness an incident which is or is believed to be, a violation of the State Gift Ban Act shall report that incident or event in writing to the Commission by a verified complaint.

Section 568.110 Definitions

- "Act" shall mean the State Gift Ban Act [5 ILCS 425].
- "Chairman" or "Chairperson" or "Chair" shall mean the person elected presiding officer of the Commission.
- "Commission" shall mean the Office of Secretary of State Ethics Commission created by the State Gift Ban Act [5 ILCS 425].
- "Complaint" shall mean a written, signed, verified and notarized document that alleges a violation of the State Gift Ban Act by an officer or employee of the executive branch of State government under the jurisdiction of the Secretary of State. A complaint shall conform to the requirements of the State Gift Ban Act and this Part.
- "Complainant" shall mean the person who submits a complaint to the Commission.
- "Final" shall mean entered as signed by the Chairman and filed with the Commission.
- "Final administrative decision" shall mean a decision subject to judicial review by the Circuit Court under the Administrative Review Law [735 ILCS 5/Art. III] and includes only those cases in which a fine was imposed by the Commission.

"Hearing on the complaint" shall mean the closed meeting held on the complaint during which the Complainant and Respondent present testimony and evidence, as described in 5 ILCS 425/60(d).

"Meeting" shall mean a regularly scheduled gathering of the Commission members, in person, by telephone, or by video conference, to discuss the business of the Commission in general.

"Meeting to determine sufficiency and probable cause" shall mean the closed meeting held on the complaint to decide the sufficiency of the complaint and probable cause, as described in 5 ILCS 425/60(c).



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"Official Receiving Clerk" shall mean the Chairman of the Commission (or designee) whose duties shall include, but are not limited to, receiving complaints on behalf of the Commission. Receipt of a complaint by the Chairman shall be receipt by the Commission.

"Public hearing on the complaint" shall mean a public hearing demanded by the Respondent, as described in 5 ILCS 425/60(f).

"Respondent" shall mean the person who is alleged to have violated the State Gift Ban Act as described in the complaint.

"Secretary of the Commission" shall mean one of the Commission members designated by the Commission, or a staff employee of the Secretary of State's Office designated by the Commission, or an individual with whom the Commission has contracted, to perform the duties of Secretary of the Commission. Duties of the Secretary of the Commission include, but are not limited to, keeping the minutes of the proceedings of the Commission, ensuring proper notifications are made as required by law, maintaining as custodian the Commission's records, and in general performing all duties incident to the position of Secretary of the Commission and such other duties as from time to time may be prescribed by the Chairperson or the Commission.

"Special meeting" shall mean a gathering of the Commission members called by the Chairman or any two members of the Commission.

## Section 568.120 Form of Complaint and Designations

- a) Form of Complaint: All complaints shall conform to the requirements of the procedures set forth in this Part and the Act. A complaint shall be in the form and format specified in this Part.
- b) Designations: The person who is making the complaint shall be designated the Complainant and the person to whom the complaint is directed shall be designated the Respondent.

## Section 568.130 Standard Information in Complaints

Each complaint shall be submitted on the form provided by the Commission or other written documentation containing the same information. The complaint shall include:

- a) A caption entitled "Verified Complaint" and a statement stating "concerning a violation of the State Gift Ban Act".
- b) Directly under the caption and statement required by subsection (a), the notation: "File Number: \_\_\_\_\_".
- c) The name, mailing address and telephone number and title of the Complainant.
- d) The name of the Respondent and, if known, his or her mailing address and telephone number.

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- e) Plain and concise statement of the alleged violation.
- f) Complete factual details of the facts and circumstances that support the Complainant's allegations that the State Gift Ban Act was violated or believed to be violated. Each alleged violation comprising the complaint shall be individually stated in separate numbered counts. Each count shall:
  - 1) state the date of the commission of the violation, location where the violation occurred, and the person alleged to have committed the violation.
  - 2) state, in a logical and meaningful order, the facts and circumstances supporting the alleged violation, being specific as to dates, times, acts and conduct involved, as well as the names, addresses and telephone numbers of any person with knowledge of the alleged violation, noting the exact nature of his or her knowledge.
  - 3) present a concise description of any evidence known to the Complainant to support the complaint.
  - 4) have attached to the complaint, as exhibits, any documents relied upon in support of the complaint.

## Section 568.135 Verification

- a) Every complaint shall be notarized and verified upon oath or affirmation in substantially the following manner: I the undersigned, under penalties of perjury, swear/affirm that the statements set forth in this Complaint are true, correct and complete, except as to matters stated to be based on information and belief, and as to such matters I swear/affirm that I believe the same to be true.
- b) All complaints that do not contain this verification will not be processed, but will be returned to the Complainant for this verification.

## Section 568.140 Jurisdiction

The Commission may only investigate and render a finding on an incident contained in a written complaint that is filed within one calendar year after the incident occurred. Any complaint filed beyond this period of time shall be dismissed by the Commission for lack of jurisdiction. Complaints that are filed with the Commission shall comply with the procedures set forth in this Part and the Act to be considered by the Commission.

## Section 568.150 Official Receiving Clerk

- a) The Chairman of the Commission (or designee) shall serve as the official receiving clerk of the Commission for the purpose of receiving complaints on behalf of the Commission. Receipt of a complaint by the Chairman shall be receipt by the Commission.
- b) Receipt of a complaint by any other person, including Commissioners of

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the Commission, is not receipt by the Commission until the complaint is received by the Chairman.

c) A person may file a written verified complaint at the following location:

Secretary of State's Ethics Commission Chairman  
State Capitol  
Room 213  
Springfield IL 62756

**Section 568.160 Filing of Complaint/Determination of Sufficiency and Probable Cause**

Upon receipt of a complaint by the Commission, the procedures set forth in Section 60(a) through (g) of the Act and in this Part, as applicable, shall apply. All hearings, whether closed or open, shall be recorded either through an electronic device or by court reporter. After receipt of a verified written complaint, the Commission shall:

- a) Within three business days send by certified mail, return receipt requested, a notice to the Respondent that a complaint has been filed against him or her, along with a copy of the complaint. The notice shall also state the date, time and place of the meeting at which the Commission will determine the sufficiency of the complaint and whether probable cause exists to proceed with the complaint.
- b) Send by certified mail, return receipt requested, at the same time notification is sent to the Respondent, but no later than three business days after the submission of the complaint, a confirmation to the Complainant of receipt of the complaint. A notice shall also be included that advises the Complainant of the date, time and place of the Commission meeting at which the Commission will determine the sufficiency of the complaint and whether probable cause exists to proceed with the complaint. All notices sent prior to a determination of the existence of sufficiency and probable cause shall not identify the Complainant or Respondent by name, but shall designate the case by file number.
- c) Post all public notices in the Howlett Building, Springfield, Illinois and at 17 North State, Chicago, Illinois.
- d) Upon at least 24 hours public notice, meet in closed session to review the filed complaint. At least four members of the Commission must be present for a quorum to exist to proceed with the hearing on the complaint. If a quorum is not present, the Commission may adjourn to a date and time when a quorum may be present.
- e) Review the complaint and determine whether the complaint sufficiently alleges a violation of the Act. If the Commission determines that the complaint is sufficient, the Commission will determine whether, solely based on the evidence identified in and attached to the complaint, probable cause exists to proceed with further hearing on the complaint.

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- f) Within seven business days after the complaint is filed, issue notice to the Complainant and the Respondent as to the determination of the Commission on the sufficiency of the complaint and whether probable cause exists to proceed further. Notice shall be sent by certified mail, return receipt requested.
- g) If the complaint is not deemed to be sufficient or probable cause does not exist, the notice shall include a notice to the Complainant and the Respondent that the complaint is being dismissed. Notice of dismissal of the complaint will be made available for public inspection.

**Section 568.170 Procedures Following Determination of Probable Cause**

- a) If the Commission determines that a complaint sufficiently alleges a violation of the Act, and that probable cause exists to proceed further, the Commission shall also enclose with the notice advising the Complainant and Respondent of its decision, a notice of the date, time and location of the hearing on the complaint. The hearing date shall be scheduled within four weeks from the date the complaint was officially received.
- b) At least 24 hours prior to the hearing on the complaint, the Commission shall provide public notice of the hearing date, time and location and shall note on the notice that the hearing is closed to the public.
- c) On the date of closed hearing on the complaint, the Commission shall permit the Complainant and Respondent to present testimony and evidence.
- d) Following the hearing, and within six weeks after the official receipt of the written complaint, the Commission shall either:
  - 1) dismiss the complaint; or
  - 2) issue a preliminary recommendation regarding the Respondent to the Secretary of State, with a copy to the alleged violator, and/or impose a fine upon the violator.
- e) Notice of a preliminary recommendation or any fine imposed shall be sent to the Respondent by certified mail, return receipt requested.
- f) Any preliminary recommendation, any particular findings by the Commission, and any fine imposed shall be made available for public inspection.
- g) Within seven business days after the issuance of a preliminary recommendation and/or imposition of a fine, the Respondent may file a written demand for a public hearing on the complaint. The filing of the written demand shall stay the enforcement of the preliminary recommendation or fine.
- h) Within two weeks after receiving the demand, the Commission shall conduct a public hearing on the complaint. At least 24 hours public notice of the hearing shall be provided.
- i) At the hearing, the Complainant and Respondent shall be allowed to present testimony and evidence to the Commission. Within five



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business days, the Commission shall publicly issue a final recommendation to the alleged violator and to the Secretary of State and/or impose a fine.

- j) The Commission, for a violation of the Act, may recommend any and all disciplinary action permitted by the Act.
- k) The Secretary of State shall review the preliminary recommendation and shall either agree or disagree with the recommendation and the proposed disciplinary action. The Secretary of State may, within his or her discretion, impose greater or lesser disciplinary action than recommended by the Commission.
- l) A fine may be imposed by the Commission and is not subject to review by the Secretary of State. Any fine that has been imposed by the Commission shall be considered a final administrative decision appealable under the Administrative Review Law [735 ILCS 5/Art. III].

## Section 568.180 Frivolous Complaints

Any person who knowingly files a frivolous complaint alleging a violation of the Act may be subject to a fine by the Commission up to \$5,000.

## Section 568.190 Ethics Commission Members and Terms of Office

- a) The Commission shall consist of seven commissioners appointed by the Secretary of State. No more than four of the seven appointees shall be of the same political party [5 ILCS 425/45].
- b) The initial appointees to the office of Commissioner shall be divided by lot into two groups of four and three. The Commissioners of the first group shall serve two-year terms and the Commissioners of the second group shall serve one-year terms. Thereafter, Commissioners shall be appointed to two-year terms. Commissioners may be reappointed to serve subsequent terms. [5 ILCS 425/45]
- c) The Commission shall operate on a calendar year basis.

## SUBPART B: COMMISSION PROCEDURES

## Section 568.200 Meetings of the Commission

- a) A regularly scheduled meeting of the Commission shall be held every other month. The members shall schedule the dates for such meetings at the commencement of the calendar year.
- b) Special meetings of the Commission may be called by the Chairperson or any two members of the Commission.
- c) The regular meetings of the Commission shall be held at Springfield, Illinois, or such other place as designated by the Chair. The place of special meetings shall be designated by the Chair.
- d) Notice of regular or special meetings shall be transmitted to the members not less than five business days prior to any session of the Commission.

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- e) Public notice of meetings shall be posted in the Howlett Building, Springfield, Illinois, and at the Office of the Secretary of State at 17 North State Street in Chicago, Illinois. Such public notice of meetings shall be posted at least 24 hours prior to the date and time of the meeting.
- f) A quorum of the Commission shall consist of a majority (four members) of the Commission. Official action of the Commission shall require the affirmative vote of the majority of members of the Commission (four). [5 ILCS 425/45(d)]
- g) The Commission may designate one of its members as Secretary of the Commission, designate a staff employee of the Secretary of State's Office as Secretary of the Commission or, pursuant to Section 50 of the Act, contract with an individual to perform the duties of the Secretary of the Commission.
- h) Voting shall be by voice vote and shall be recorded by the Secretary of the Commission.

## Section 568.210 Committees

- a) The members of the Commission, by resolution, may create one or more committees and appoint members of the Commission or others to serve on the committees. Each committee shall have three or more members who shall serve at the pleasure of the Commission. Unless the appointment by the members of the Commission requires a greater number, a majority of any committee shall constitute a quorum and any action shall require the affirmative vote of a majority of the members of the committee.
- b) A committee, by a majority vote of its members, shall determine the time and place of meetings and notice required.
- c) A committee shall be limited in its scope to such matters as specifically referred to it by the members of the Commission, and it shall take no action inconsistent with that direction nor consider any other matters, other than those matters given to it by the Commission.

## Section 568.220 Informal Action by Committee Members

An action may be taken without a meeting if a consent in writing, setting forth the action taken, is signed by all of the committee members. All approvals of the action taken and evidencing consent shall be delivered to the Secretary of the Commission to be placed in the Commission records.

## Section 568.230 Telephonic Meetings

- a) Members may attend meetings by telephone or video conference, so long as at least three of the members of the Commission are physically present at the time and place designated for the meeting. Members should notify the Chair, or the Chair's designee, of their intentions as to attendance.



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- b) Members of any committee of the Commission may participate and act at any meeting of the committee through the use of a conference telephone or video communications equipment. All persons participating in the meeting by these methods shall be considered to be in attendance. For a committee meeting, there is no requirement of physical presence.

**Section 568.240 Presumption of Assent**

A member of the Commission or a member of a committee who is present at a meeting of either the Commission or a committee at which action on any matter is taken shall be conclusively presumed to have assented to the action, unless the member's dissent is entered in the minutes of the meeting or unless the member files, before adjournment of the meeting, written dissent to the action with the person acting as the secretary of the meeting, or forwards such dissent to the secretary of the meeting immediately after the adjournment of the meeting.

**Section 568.250 Resignations, Removal and Vacancies**

- a) Any member of the Commission may resign at any time by giving written notice to the members of the Commission and the Secretary of State. The resignation shall take effect at the time specified in the notice and, unless tendered to take effect upon acceptance, the acceptance of the resignation shall not be necessary to make it effective.
- b) A Commissioner may be removed by the Secretary of State in case of incompetency, neglect of duty, or malfeasance in office. The copy of the charges against a Commissioner shall be in writing and shall be served on the Commissioner by certified mail, return receipt requested. The Commissioner so charged shall have 10 business days after the receipt of the copy of the charges to request an opportunity to be heard and respond to the charges in person or by counsel. A hearing requested by a Commissioner so charged shall be held not less than 10 business days after the request for a hearing on the charges is received. [5 ILCS 425/45(c)]
- c) Any vacancy occurring in the members of the Commission shall be filled by the Secretary of State for the completion of the term of the vacant position.

**Section 568.260 Officers of the Commission**

- a) The Commission shall annually elect from its membership a Chairperson, a Vice Chairperson and a Secretary.
- b) The Chairperson, subject to the control of the Commission, shall in general supervise the business and affairs of the Commission and shall see that resolutions and directions of the Commission are carried into effect except when that responsibility is specifically assigned to some other person by the Commission. The Chairperson shall preside at all meetings of the Commission.

- c) In the absence of the Chairperson, or in the event of the Chairperson's inability or refusal to act, the Vice Chairperson shall perform the duties of the Chairperson and, when so acting, shall have all the authority of and be subject to all the restrictions upon the Chairperson.

- d) The Secretary of the Commission shall:

- 1) keep the minutes of the proceedings of the Commission;
- 2) be the custodian of the Commission's records;
- 3) in general, perform all duties incident to the position of Secretary of the Commission and such other duties as from time to time may be prescribed by the Chairperson or the Commission.

**Section 568.270 Conflict of Interest**

- a) In the event that a member of the Commission believes that he or she has a conflict of interest with respect to any matter brought before the Commission or for any other reason, that member shall advise the Commission of the material facts of any transaction in which the member may have an interest or any relationship that the member believes may create a conflict.
- b) If the members of the Commission believe that the situation constitutes a conflict of interest, then the member shall abstain from voting on the issue. The abstinance from voting by the member shall not alter the requirement that a majority (four votes) is necessary for the Commission to take official action. The Commission may request an opinion of the Attorney General on the issue if they believe such an opinion is needed.

**Section 568.280 Robert's Rules of Order**

The meetings of the Commission and its committees shall be governed by Robert's Rules of Order, except in such instances where statutes supersede this Part or supersede Robert's Rules of Order. Additionally, the Commission may, in its discretion, adopt specific procedures inconsistent with Robert's Rules of Order.

**Section 568.290 Effective Date**

This Part shall be effective on November 1, 2000, except that, during any period in which the State Gift Ban Act [5 ILCS 425] is deemed to be unconstitutional, this Part shall not be in effect. If only certain Sections of the State Gift Ban Act are deemed unconstitutional, those Sections of this Part that are authorized by the valid Sections of the Act shall remain in effect.

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedure and Standards

- 2) Code Citation: 92 Ill. Adm. Code 1001

Section Numbers:	Adopted Action:
1001.100	Amend
1001.220	Amend
1001.240	Amend
1001.260	Amend
1001.300	Amend
1001.340	Amend
1001.360	Amend
1001.410	Amend
1001.420	Amend
1001.430	Amend
1001.440	Amend
1001.450	Amend
1001.470	Amend
1001.610	Amend
1001.670	Amend

- 4) Statutory Authority: Subpart A implementing Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and authorized by Sections 2-103, 2-104, 2-113, 2-103 and 2-104, of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implementing Chapter 7 and authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, and Ch. 7]. Subpart C implementing Sections 6-205(c) and 6-206(c)3 and authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D authorized by Sections 2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501. Subpart F implementing Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8].

- 5) Effective Date of Amendments: December 15, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 10061, 14 July 2000

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## NOTICE OF ADOPTED AMENDMENTS

- 10) Has JCAR issued a Statement of Objections to these amendments? No

- 11) Difference(s) between proposal and final version: The comments of the Administrative Code Division and JCAR have been incorporated into the amendments. All changes were non-substantive in nature.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendment: These amendments achieve the following objectives: bring the Secretary of State rules regarding hearings to obtain driving privileges in alcohol/drug related cases into compliance with the amended rules of the Department of Human Services, Office of Alcoholism and Substance Abuse (OASA), as they affect classification and treatment /intervention guidelines; correct the location of safety responsibility hearing sites; provide for expedited hearing procedures for certain out-of-state petitioners; allow more petitioners to be eligible for informal hearings; set up a review consultation process to help petitioners denied at the formal hearing level prepare for future formal hearings; allow for the issuance of restricted driving permits to new residents whose driving privileges are revoked in another state, and therefore not eligible for full driving privileges, upon meeting certain requirements; make grammatical, organizational and other non-substantive changes; in expert and revise breath alcohol threshold points in light of the recent DUI change from 0.10 to 0.08; generally revise these rules to conform to the procedures that have evolved over time since the last revision.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Marc Christopher Loro, Legal Advisor II  
 Department of Administrative Hearings  
 Micheal J. Howlett Building, Room 200  
 Springfield, Illinois 62756  
 217/785-8245  
 Fax: 217/782-2192  
 mloro@ilsos.net

The full text of the adopted amendments begins on the next page:

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## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATE

## PART 1001

## PROCEDURES AND STANDARDS

## SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

## Section

1001.10	Applicability
1001.20	Definitions
1001.30	Right to Counsel
1001.40	Appearance of Attorney
1001.50	Special Appearance
1001.60	Substitution of Parties
1001.70	Commencement of Actions; Notice of Hearing
1001.80	Motions
1001.90	Form of Papers
1001.100	Conduct of Formal Hearings
1001.110	Orders
1001.120	Record of Hearings
1001.130	Invalidity

## SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

## Section

1001.200	Applicability
1001.210	Definitions
1001.220	Hearings: Notice; Locations; Procedures; Record
1001.230	Rules of Evidence
1001.240	Scope of Hearings
1001.250	Decisions and Orders
1001.260	Rehearings
1001.270	Judicial Review
1001.280	Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS  
IN DRIVERS LICENSE SUSPENSIONS AND REVOCATIONS

## Section

1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Record and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions
1001.370	Invalidity

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## NOTICE OF ADOPTED AMENDMENTS

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS,  
REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF  
DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

## Section

1001.400	Applicability
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations Pursuant to Sections 6-205(a)(2), 6-205(d)(7), 6-206(a)(7), 6-206(a)(17), 6-206(a)(24), 6-206(a)(31), 6-207-6-209, 6-209-1 and 11-501-1
1001.441	Breath Alcohol Ignition Interlock Device Pilot Program
1001.442	Manufacturer's Responsibilities; Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions
1001.443	Installers' Responsibilities
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDP's
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

## SUBPART E: FORMAL MEDICAL HEARINGS

## Section

1001.500	Applicability
1001.510	Definitions
1001.520	Procedure
1001.530	Conduct of Medical Formal Hearings
1001.540	Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES; PERSONS  
UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT HEARINGS; RESTRICTED  
DRIVING PERMITS

## 1001.600

1001.610	Applicability
1001.620	Definitions
1001.630	Burden of Proof
1001.640	Implied Consent Hearings; Religious Exception
1001.650	Implied Consent Hearings; Medical Exception
1001.660	Rebuttable Presumption
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out-of-state---Petitioner's---Affidavit---which---provides---the information otherwise required by the Illinois Secretary of State (the Secretary) at a formal hearing. Out-of-state petitioners shall be required to attend a hearing in person, unless the petitioner Petitioner shows good cause for not being able to attend in person. Good cause is shown when it is demonstrated by through a written statement that the Petitioner Petitioner cannot attend a formal hearing in person due to economic, physical, or medical reasons. Mere inconvenience does not constitute good cause.

3) Except as provided in Sections 1001.430(k) and 1001.440(o), out-of-state petitioners must submit at a minimum all documentation and information required by Subpart D of this Part, as well as a sworn, Out-Of-State Petitioner's Affidavit, which provides the information otherwise required by the Illinois Secretary of State (the Secretary) at a formal hearing.

b) Every hearing shall be presided over by a hearing officer Hearing Officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in the said hearing on his/her behalf. Prior to the taking of evidence, the petitioner/respondent petitioner/respondent may request disqualification of the hearing officer Hearing Officer by making a motion for disqualification on the record for same, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner/respondent petitioner/respondent by the hearing officer Hearing Officer. The hearing officer Hearing Officer will rule upon the motion. If the motion is denied, the hearing will proceed, or the petitioner Hearing Officer may withdraw from the hearing. If the motion is granted, the case shall be transferred to another hearing officer Hearing Officer for a hearing on the same day if possible. If it is not possible to schedule a hearing on the same day, a new hearing date shall be scheduled and another hearing officer Hearing Officer shall be assigned by the Secretary. The hearing officer Hearing Officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.

c) Upon order of the hearing officer Hearing Officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may cause, at his/her or its expense, a deposition of any witness to be taken for use as evidence in a contested case (for example, when the witness is not available due to distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors). The deposition shall be taken in the manner provided by law for evidence depositions in civil actions in the Circuit Courts of

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Illinois. Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party. Written interrogatories shall be served on the opposing party no later than fifteen--4 15 business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the hearing officer, Hearing Officer who shall rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense. The technical rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule which might make improper the admission of the such evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded upon objection. Objections to evidentiary offers may be made and shall be noted in the record, and ruled upon by the hearing officer Hearing Officer. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this subsection, a party may conduct cross-examination required for a full and fair disclosure of the facts.

e) Official notice may be taken of past hearings and any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Department's and the hearing officer's Hearing Officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

f) At the request of any party or upon his own motion, the hearing officer Hearing Officer may call a prehearing conference. At the conference, the parties or their representatives shall appear as the hearing officer Hearing Officer directs. Matters which may be considered at a prehearing conference include, but are not limited to:

- 1) The simplification of the issues;



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- 2) Amendments to the grounds for action;
- 3) The possibility of obtaining admissions and stipulations of fact and of documents which will avoid unnecessary proof;
- 4) The limitation of the number of expert witnesses;
- 5) Any other matters which may aid in the disposition of the contested case.
- g) Upon the conclusion of a prehearing conference, the hearing officer Hearing-Officer shall enter an order which recites any action taken, any agreements made by the parties as to any of the matters considered, and the issue to be heard.
- h) Upon written request, made at least ten-4 104 business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, or furnish written answers to a written demand for a bill of particulars.
- i) Any party or his representative shall have the right, upon written motion made at least ten-4 104 business days prior to the hearing, to inspect any relevant documents in the possession of or under the control of any other party and to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Interviews of persons and inspection of documents shall be at times and places reasonable for the persons and for the custodian of the document.
- j) Testimony Oral-evidence shall be taken only on oath or affirmation.
- k) Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.
- l) Each party shall have the right to request the subpoena of and to call and to examine witnesses, 7 to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Applications Application to the hearing officer Hearing-Officer assigned to the case for subpoenas duces tecum shall specify the books, papers, and documents desired to be produced.
- m) Each party shall have the right to rebut the evidence against him; to appear in person; and to be represented by counsel. If a party does not testify in his own behalf, he may be called by the Secretary of State's representative and examined as if under cross-examination.
- n) A request to continue or withdraw a hearing request is directed to the sound discretion of the hearing officer Hearing-Officer to whom the case has been assigned for hearing. Either request may be granted, for good cause shown, provided the request is received by the Department not less than five-4 54 days prior to the hearing date unless good cause is shown within the five days or during the hearing due to the need for new evidence, sudden unavailability of counsel, sudden illness of a party, or similar reasons. A Such request made prior to the hearing shall be in writing and shall set forth the grounds alleged for the request therefore. "Good cause" is shown when a petitioner Petitioner or respondent Respondent

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demonstrates a real and compelling need for additional time. "A real and compelling need" includes, but is not limited to, service in the armed forces or serious illness, family death, or act of God, relating to either party or that party's attorney. No request by any attorney on behalf of a petitioner/respondent Petitioner/Respondent will be considered unless the attorney shall have filed a written notice of appearance as provided in Section 1001.40.

- 1) A formal hearing shall not be continued "generally". A continuance, when granted, shall state a date certain, upon not more-than-sixty-604 days-from-the-prior-hearing--date--at which time the hearing shall reconvene. Repeated-continuances-will-not be-granted. If the petitioner Petitioner is not prepared to go forward after the first continuance, a request to withdraw should be submitted.
- 2) The party requesting the hearing may request withdrawal from the hearing at any time up to the conclusion of the taking of evidence. A request to withdraw from a hearing, which in the hearing officer's Hearing-Officer's judgment is based upon surprise of evidence presented or adverse evidence, shall not be granted. Upon withdrawal, the requested relief will not be considered and the case dismissed. Should the party request another hearing, it must be done in writing and it will be treated as any other request for hearing. (See Section 1001.704.)

- 3) An out-of-state petitioner who fails to provide the information required by Sections 1001.100(a)(3) and 1001.440(c) within 90 days after a written demand made by the Department to his/her last known address shall have his/her petition withdrawn by a written Order of the Director or Duty Director. The Order shall be made part of the petitioner's permanent record and a copy shall be sent to the petitioner's last known address. The Department shall not accept another petition for driving relief from a petitioner whose petition for driving relief has been withdrawn pursuant to this provision for 4 months from the date of the Order.

- o) A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.

- p) Upon the opening of the hearing, the hearing officer Hearing-Officer shall allow the parties to make opening statements. Opening statements may not be made at any other time, except at the discretion of the hearing officer Hearing-Officer. Upon the close of the hearing each party may make a closing statement orally and/or by written brief at the discretion of the hearing officer Hearing Officer, incorporating arguments of fact and law. A written brief may



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be required when the facts and issues are deemed complicated by the hearing officer Hearing-Officer, and there is a need for the parties to plead their cases in writing for the record.

q) All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the hearing officer Hearing-Officer.

r) In the hearing of any case, any party or his agent may be called, as an adverse witness and examined as if under cross-examination, by at the--instance-of any adverse party. The adverse party A-party calling for the examination is not bound by the testimony of the adverse witness thereby, but may rebut the testimony thus given and may impeach the witness by proof of prior inconsistent statements. If the hearing officer Hearing-Officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling an occurrence witness may, upon showing that he called the witness in good faith but is surprised by his testimony, impeach the witness by proof of prior inconsistent statements.

s) The burden of proof is upon the petitioner Petitioner for any relief in a hearing. The standard of proof is the preponderance of the evidence, except as provided for in Subpart D.

t) The Secretary will provide an interpreter for hearing impaired petitioners/respondents Petitioners/Respondents who wish to testify; providing a language interpreter, however, is the responsibility of the petitioner/respondent Petitioner/Respondent.

u) Report of Proceedings.

1) The Department shall, at its expense, have present at each hearing an electronic recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, including to-wit: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the hearing officer Hearing-Officer and of the parties and/or their representatives, all rulings of the hearing officer Hearing-Officers.

2) Upon request and at his own expense any party may have a copy of the said report of proceedings, from the said court reporter, or transcribed from the electronic device by the Department at the statutory rate as set forth in Section 5.5 of the Secretary of State Act [15 ILCS 305/5.5] 10-of-the-fee-and-Salaries-Act-(111-Rev-7-Stat-19917-ch-537-par-24)-(5-ILCS-290/10) and 2 Ill. Adm. Code 551.150, or the cost of an audio tape plus mailing.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section 1001.220 Hearings: Notice; Locations; Procedures; Record

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a) Subsequent to certification of an uninsured motorist by the Department of Transportation as provided by statute, and upon a preliminary finding that a reasonable possibility of a civil judgement 111-Rev-7-Stat-19917-ch-95-172-par-7-205)-(625--ILCS--57-205) exists, the Secretary shall institute a Notice of Suspension which advises the petitioner Petitioner of his/her right to a hearing in lieu of deposit of security. Any petitioner Petitioner by submitting a written request post-marked within 15 days after of the mailing date of the Notice of Suspension, will be afforded a full, fair, and impartial hearing to contest the preliminary finding of the Secretary. 1625 ILCS 57-205(a) Any such request for hearing will stay the effective date of the safety responsibility suspension pending the outcome of the hearing. Hearing requests received after the 15 day period will be granted; however, the suspension will not be stayed or removed pending the hearing.

b) The decision resulting from the hearing shall be based upon the following factors: whether the said petitioner Petitioner, as a motor vehicle owner or operator, has been involved, or whose vehicle has been involved, in a motor vehicle accident occurring within the State of Illinois and which has resulted in bodily injury or death of any person or in which damage to the property of any one person exceeds the amount provided by statute; whether petitioner Petitioner is exempt from the Safety Responsibility Law; and whether there exists a reasonable possibility of a civil judgment against the petitioner Petitioner. The petitioner Petitioner shall bear the burden of proof throughout the proceedings. The standard of proof shall be a preponderance of the evidence.

c) The hearing shall be initiated by the issuance of a Notice of Hearing by the Secretary. The Said Notice shall be served upon the petitioner Petitioner, as the party against whom action may be taken by the Secretary, any interested party, and any attorney of record.

d) The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information: 7-towit:

- 1) The name of the petitioner Petitioner;
- 2) The name and address of any claimants or injured parties;
- 3) The date, time, place, and nature of the hearing;
- 4) The matters to be addressed at the hearing;
- 5) The name of the hearing officer Hearing-Officer;
- 6) The specific Sections sections of the Statutes involved;
- 7) The statutory authority pursuant to which the hearing is being conducted;
- 8) Notice to Advise the petitioner Petitioner that a failure to appear will result in the denial of any relief requested and that at any rehearing granted under Section 1001.260 the petitioner Petitioner will be deemed to have waived the right to subpoena or cross-examine witnesses that testified at the original hearing.

e) Hearings shall be conducted in the Counties of Cook, DeKalb, Will,

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Rock Island, Tazewell, Adams, Sangamon, Champaign, Coles, Kane, Marion, St. Clair, and Jackson, and in such other locations as the Secretary shall from time to time designate. If the Secretary determines to abandon or change the location of the hearing outside the counties specifically listed in this subsection ~~where any of the thirteen (13) original hearing locations are situated, which are located in the counties listed in the previous sentence~~, the Secretary shall publish in a local newspaper of general circulation in each county served by the Secretary ~~such office~~, 20 ~~twenty~~ days prior notice of the change ~~thereof~~. The notice shall indicate the reasons for the such determination and shall identify the new location proposed to serve the such county, if known at the time of publication.

f) Every hearing shall be presided over by a hearing officer ~~Hearing Officer~~ duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in his behalf. Prior to the taking of evidence, a petitioner ~~Petitioner~~ may request the disqualification of the hearing officer ~~Hearing Officer~~ by making a motion for disqualification ~~same~~, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner ~~Petitioner~~ by the hearing officer ~~Hearing Officer~~. The hearing officer ~~Hearing Officer~~ will rule upon the motion. If the motion is denied, the hearing will proceed. If the motion is granted, the case shall be transferred to another hearing officer ~~Hearing Officer~~ for a same day hearing if possible. If not possible, a new hearing date will be established and another hearing officer ~~Hearing Officer~~ shall be assigned by the Secretary. The hearing officer ~~Hearing Officer~~ shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.

g) Each party to the hearing shall have the following rights:

- 1) The right to the issuance of subpoenas upon ~~a ten (10) business day~~ written request directed to the hearing officer ~~Hearing Officer~~ at least 10 business days prior to the hearing;
- 2) The right to call and examine witnesses;
- 3) The right to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered on direct examination;
- 4) The right to introduce exhibits; and
- 5) The right to obtain in advance, upon written request, copies of all related police reports not designated confidential by State law. Requests ~~such requests~~ must be submitted at least 10 business days prior to the hearing date to be considered. The parties may request copies of the related police reports at the hearing if the need for the such copies could not be foreseen before the hearing, or the need for them arose because of the

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h) issues or allegations adduced at the hearing.

The petitioner ~~Petitioner~~ shall have the right to appear in person and be heard through an attorney at law licensed to practice in the State of Illinois or any law student licensed under Supreme Court Rule 711. If the petitioner ~~Petitioner~~ does not testify on his/her own behalf, he/she may be called by the representative of the Secretary and examined as if under cross-examination.

1) Attorneys admitted to practice in states other than the State of Illinois may appear by special leave of the hearing officer ~~Hearing Officer~~ appointed to conduct the hearing, upon the attorney's verbal representation or written documentation as to the attorney's admittance.

2) A natural person may appear and be heard in his/her own behalf.

3) A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.

4) Only an attorney mentioned above properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

i) The proceedings shall be recorded by a suitable electronic method. The petitioner ~~Petitioner~~ may furnish, at his/her own expense, a certified shorthand reporter. All records taken pursuant--hereto shall be properly cataloged and preserved by the Secretary for a period of at least ~~forty-five (45)~~ days from the entry of the hearing officer's ~~Hearing Officer's~~ order. Oral proceedings, or any part thereof, shall be transcribed upon the request of the petitioner ~~Petitioner~~, any party, or his/her their counsel at the said requesting party's personal expense as specified in 2 Ill. Adm. Code 551.150, or the cost of an audio tape, plus mailing.

j) The record of a hearing held pursuant to this Section hereto shall include, but not be limited to, the following ~~twofold~~:

- 1) The notices, pleadings, and responses to pleadings thereto;
- 2) The motions and rulings on motions thereon;
- 3) The matters officially noticed;
- 4) The offers of proof made and objections to thereon and rulings on those offers thereon;
- 5) The opinions, recommendations, or reports by the hearing officer ~~Hearing Officer~~, Secretary, or Department; and
- 6) A transcript of the proceedings.

k) The Secretary will provide an interpreter for hearing impaired petitioners ~~Petitioners~~ and interested parties interested-Parties who wish to testify, providing a language-interpreter; however, however, it is the responsibility of the petitioner ~~Petitioner~~ or interested parties interested-Parties to provide a language interpreter.

(Source: Amended at 24 Ill. Reg.                     , effective                     )



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## Section 1001.240 Scope of Hearings

- a) The issues to be determined at the hearing are the following--to-wit:
- 1) The identity of the driver(s) involved in the accident;
  - 2) The identity of the owner(s) of the vehicle(s) involved in the accident;
  - 3) The nature and extent of the bodily injury or property damage sustained in the accident;
  - 4) Whether there is a reasonable possibility of either of the following situations occurring--to-wit:
    - A) A judgment being rendered against the petitioner Petitioner for liability resulting from bodily injury occasioned by the accident; or
    - B) A judgment being rendered against the petitioner Petitioner for liability in an amount in excess of the statutory minimum as found in Section 7-201 of the IVC [625 ILCS 5/7-201] of--\$250 resulting from property damage to the property of any one person occasioned by the accident.
  - 5) Should it be so determined that either of these two factual situations exists exist, the preliminary finding of the Secretary shall stand.
  - 6) The existence of any other issue or element necessary to the establishment of a case, if same is contested by the petitioner Petitioner.
  - b) The law of negligence as determined by the Illinois Supreme Court and the Illinois General Assembly will apply in the decisions made from the hearings.
  - c) If a petitioner Petitioner requests a hearing and there is evidence of an installment agreement in the file, the hearing officer Hearing Officer shall go on the record at the time of the scheduled hearing.
    - 1) If the petitioner Petitioner wishes to contest liability or the amount of the security deposit required by the Department of Transportation certification, a full hearing shall be conducted based upon the facts of the accident and the amount of the damages involved. The validity of the installment agreement shall not be an issue and the hearing shall proceed as if no installment agreement exists.
    - A) If the decision of the hearing officer Hearing Officer is to exonerate the petitioner Petitioner, the hearing officer Hearing Officer shall return the installment agreement to the petitioner Petitioner and inform the petitioner Petitioner that the decision does not alter the validity of the installment agreement.
    - B) If the decision of the hearing officer Hearing Officer is that the petitioner Petitioner did not rebut the preliminary finding of the Secretary, the hearing officer Hearing Officer shall make such a finding, along with a finding regarding the amount of the security deposit required, as

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well as a finding that the petitioner Petitioner is in compliance by virtue of submission of the installment agreement.

- C) A hearing in the case shall be held even though there has been a default on the installment agreement.
- 2) If the petitioner Petitioner does not wish to contest liability or the amount of the certification, the hearing officer Hearing Officer will go on the record and state these facts. The installment agreement will be forwarded to the Safety and Financial Responsibility Division, Driver Services Department, Illinois Secretary of State, and no action will be taken against the driving and registration privileges of the petitioner Petitioner at that time.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1001.260 Rehearings

- a) A request by the petitioner Petitioner for a rehearing will be granted only if the petitioner Petitioner failed to appear on the date and at the time scheduled for the original hearing Hearing and good cause is shown.
- b) Good cause is shown when it is demonstrated that a real and compelling reason existed at the time of the original hearing for failing to appear, such as, but not limited to, service in the armed forces, serious illness, family death, or act of God, relating to any party or that party's attorney.
- c) Rehearing requests must be in writing and directed to the Secretary of State, Department of Administrative Hearings, Support Services Administrative--Responsibility--Division, Room 207, Howlett Centennial Building, Springfield, Illinois 62756.
- d) If the interested party appears and the petitioner Petitioner fails to appear (at the original hearing), the said hearing will be held and the testimony of the interested party or any other witness present taken. The evidence admitted at the original hearing shall be admissible at the rehearing and the petitioner Petitioner shall be deemed to have waived the right of cross-examination of any witnesses at the original hearing.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN DRIVERS LICENSE  
SUSPENSIONS AND REVOCATIONS

## Section 1001.300 Applicability



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- a) This Subpart applies to informal hearings conducted by driver license hearing officers ~~Driver-License-Hearing-Officers~~ in the Department of Administrative Hearings of the Office of the Secretary of State in various locations throughout Illinois. They are a lower level hearing than the formal hearings conducted pursuant to Subpart A of this Part. There is no appeal from an informal hearing to a formal hearing because the formal hearing is a de novo proceeding. These informal hearings are limited to the consideration of and the making of recommendations on drivers license suspension and revocation matters and the recommendations may include any recommendation able to be made by a formal hearing. ~~except that~~
- b) ~~An~~ an informal hearing shall not, however, consider petitions where a loss of driving privileges currently in effect involves ~~in-cases~~ involving:
- 1) death;
  - 2) rescission or modification of suspensions or revocations;
  - 3) multiple convictions pursuant to Section 11-501 of the Code, or multiple violations pursuant to Section 11-501.1 of the Code or similar provisions of local ordinances or out-of-state violations, or any combination thereof arising from separate incidents;
  - 4) revocations entered pursuant to Section 6-206(a)(1);
  - 5) cases in which the petitioner is required to participate in the interlock program. (See Section 1001.441 of this Part.)
- c) An informal hearing may, however, consider, after initial approval or issuance at a formal hearing, petitions for the continuation/renewal of restricted driving permits in the above cases if:
- 1) restricted driving permits were granted from a formal hearing;
  - 2) the permits are still in effect or have expired no more than 30 days from the date of the informal hearing;
  - 3) the petitioner has not been subsequently convicted or received court supervision for any traffic violation;
  - 4) the petitioner has driven on the permits for at least 75% of the length of the permits; and
  - 5) the petitioner is now eligible for and requests the continuation of the previously issued permits.
- ~~They are a lower level hearing than the formal hearings conducted pursuant to Subpart A of this Part. There is no appeal from an informal hearing to a formal hearing because the formal hearing is an original proceeding conducted on the evidence.~~

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1001.340 Location of Hearings

- a) There shall be at least one hearing officer Hearing-Officer in each region.

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- b) The headquarters of each region shall be in the facility located in that city, and a work location may also be established by the supervisor for one or more hearing officers Hearing-Officers within a region.
- c) The regions and headquarters are:
- 1) Region 1, consisting of the counties of Jo Daviess, Stephenson, Winnebago, Boone, DeKalb, Lee, Ogle, Whiteside, and Carroll, with headquarters in Rockford.
  - 2) Region 2, consisting of the counties of Rock Island, Henry, Mercer, Knox, Warren, and Henderson, with headquarters in the City of Moline.
  - 3) Region 3, consisting of the counties of Kendall, Will, Grundy, Kankakee, and Livingston, with headquarters in Joliet.
  - 4) Region 4, consisting of the counties of Fulton, Stark, Peoria, Woodford, and Tazewell, with headquarters in the City of Peoria.
  - 5) Region 5, consisting of the counties of Iroquois, Ford, Vermillion, Champaign, and Piatt, with headquarters in the City of Champaign.
  - 6) Region 6, consisting of the counties of Mason, Logan, Cass, Menard, Morgan, Sangamon, Scott, Christian, Greene, Macoupin, and Montgomery, with headquarters in the ~~Howlett Centennial~~ Springfield Building, Springfield, Illinois.
  - 7) Region 7, consisting of the counties of Hancock, McDonough, Schuyler, Adams, Brown, and Pike, with headquarters in Quincy.
  - 8) Region 8, consisting of the counties of Douglas, Edgar, Moultrie, Coles, Clark, Cumberland, Shelby, Effingham, Jasper, and Crawford, with headquarters in Mattoon or Effingham.
  - 9) Region 9, consisting of the counties of Fayette, Bond, Marion, Clay, Clinton, Washington, and Jefferson, with headquarters in Centralia or Mt. Vernon.
  - 10) Region 10, consisting of the counties of Calhoun, Jersey, Madison, Randolph, St. Clair, and Monroe, with headquarters in East St. Louis.
  - 11) Region 11, consisting of the counties of Perry, Franklin, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac, with headquarters in Carbondale or Marion.
  - 12) Region 12, consisting of the counties of Kane and DuPage, with headquarters in Naperville ~~Eight~~.
  - 13) Region 13, consisting of the county of Cook, with headquarters in the building where the Department is located in Cook County.
  - 14) Region 14, consisting of the counties of McHenry and Lake, with headquarters in Libertyville.
  - 15) Region 15, consisting of the counties of Bureau, LaSalle, Putnam, and Marshall, with headquarters in the City of LaSalle.
  - 16) Region 16, consisting of the counties of Dewitt, Macon, and McLean, with headquarters in Bloomington.
  - 17) Region 17, consisting of the counties of Wayne, Edwards, Wabash,

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- Lawrence, Richland, Hamilton, and White, with headquarters in Lawrenceville.
- d) Out-of-state
- 1) Petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois for 3 months or more due to employment reasons may make, except as provided in subsection (d)(2) below, written application in lieu of returning to Illinois for an informal hearing. The Such petitioner shall be deemed to have waived the right to appear in person. Out-of-state petitioners must initially submit evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions which fail to provide this evidence or establish residency. The Department also reserves the discretion to reject an out-of-state petition if there is evidence that the petitioner is maintaining substantial contact with the State of Illinois and, therefore, is capable of attending a hearing in person in a timely manner.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES  
BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcoholic liquor or other drugs.

"Abstract" means a summary of a driver's record records of traffic law violations, accidents, suspensions, revocations, cancellations, address and personal information of the driver, as contained in the files of the Office of the Secretary of State.

"Accredited Educational Course educational-course" means any class or course of instruction offered by an accredited educational institution that, which-course is either vocational in nature or is part of the matriculation process in receiving an academic degree, diploma, or certificate. It shall also include attendance at any required instructional class in an apprentice program.

"Accredited Educational Institution educational-institution" means any school or institution, whether public or private, which offers classes or courses of instruction, and which is reviewed and approved or granted a waiver of approval by the controlling state agency.

"Alcohol" means ethanol, commonly referred to as ethyl alcohol or alcoholic beverage.

"Alcohol and Drug Evaluation (Investigative)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(D) of this Subpart. The

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1001.360 Decisions

- 3) Except as provided in Sections 1001.430(k) and 1001.440(o), out-of-state petitioners must submit at a minimum all documentation and information required by Subpart D, as well as a sworn Out-Of-State Petitioner's Affidavit that provides the information otherwise required by the Secretary at an informal hearing.



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evaluation must be completed on a form prescribed by the Department. This evaluation will be conducted as required pursuant to Sections 1001.420(1) and 1001.430(d) of this Subpart, when:

the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's Petitioner's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last ten-4 107 years for which the petitioner/respondent Petitioner did not or was not required to submit to the Secretary of--State an alcohol/drug evaluation to obtain driving privileges; or

there is evidence that the petitioner/respondent Petitioner may be a user of alcohol or any other drug to a degree which renders the such-a person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

"Alcohol and Drug Evaluation (Out-of-state State)" means a typewritten report which conforms to standards established by the Department as specified in Section 1001.440(a)(6)(C) of this Subpart.

"Alcohol and Drug Evaluation (Uniform Report)" means a typewritten report which conforms to standards established by the Illinois Department of Human Services, Office of Alcoholism and Substance Abuse (OASA) (BASA). (See 77 Ill. Adm. Code 2060.503. 2056-305) The evaluation must be completed on a form prescribed by OASA BASA. The evaluation must be signed and dated by both the evaluator and the petitioner Petitioner.

"Alcohol and Drug Evaluation (Update)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(B) of this Subpart. The evaluation must be completed on a form prescribed by the Department. The update evaluation must be completed by a program in accordance with the provisions of Section 1001.440(a)(6)(A) of this Subpart.

"Alcohol and Drug Related Driver Remedial Program" means an educational program concerning the effects of alcohol/drugs on drivers of motor vehicles, also referred to as a DUI Risk Education Course, which conforms to the standards established by OASA BASA. (See 77 Ill. Adm. Code 2060.505. Subpart-B)

"Alcohol Setpoint" means the minimum or nominal BrAC (0.025) at which a device is set to lock a vehicle's ignition.

"BAC" means blood alcohol concentration as determined by a chemical

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test administered by police authorities or medical personnel to measure the concentration of alcohol in the bloodstream.

"BAIID-Eligible-Petitioner" means an Illinois resident who is in any one of the following populations:

- 1) Any recidivist as defined in this Subpart;
- 2) Any individual classified Level III-Dependent with at least six (6) but less than twelve (12) months of abstinence from alcohol and/or drugs;
- 3) Any individual with three (3) DUI dispositions if:
  - A) the last DUI arrest occurred within the three (3) year period preceding the date of the hearing; or
  - B) Any one of the DUI dispositions involved a BrAC of 0.20 or more;
- 4) Any individual with four (4) or more DUI dispositions. A BAIID-Eligible Petitioner shall not include anyone in the above populations if the BAIID-Eligible Petitioner had a hearing and was granted a RDP prior to May 10, 1994, and was eventually issued a RDP as a result of that hearing regardless of whether the permit is currently in effect or not, as long as that BAIID-Eligible Petitioner does not receive a DUI disposition subsequent to the issuance of that RDP.

"BAID Permittee" means a BAID petitioner Eligible-Petitioner who has been issued an RDP as a result of a hearing conducted under the Program.

"BAID Petitioner" means an Illinois resident who is in any one of the following populations:

Any recidivist as defined in this Section;

Any individual classified High Risk Dependent with at least 6 but less than 12 months of abstinence from alcohol and/or drugs;

Any individual with 3 DUI dispositions if:

The last DUI arrest occurred within the 3 year period preceding the date of the hearing; or

Any one of the DUI dispositions involved a BrAC or BAC of 0.20 or more;

Any individual with 4 or more DUI dispositions.

A BAID petitioner shall not include anyone in the above populations if the BAID petitioner had a hearing and was granted an RDP prior to May 10, 1994, and was eventually issued an RDP as a result of that



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hearing, regardless of whether the permit is currently in effect, as long as that BAID petitioner does not receive a DUI disposition subsequent to the issuance of that RDP.

"Breath Alcohol Ignition Interlock Devices (BAIID)" means a mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of a vehicle. If the unit detects a BrAC test result below the alcohol setpoint set point the unit will allow the vehicle ignition switch to start the engine. If the unit detects a BrAC test result above the alcohol setpoint the vehicle will be prohibited from starting. The unit or combination of units to be approved by the Secretary, in consultation with DPH, shall measure breath alcohol concentrations by breath analysis and shall include both simple and complex units.

"BrAC" means the w/v breath alcohol concentration.

"Certificate" means evidence issued by the manufacturer to an individual as proof of his authority and competence to install, accuracy check, calibrate and/or maintain ignition interlock devices.

"Certified Controlled Reference Sample" means a suitable reference of known ethyl alcohol concentration.

"Chemical Test" means the chemical analyses of a person's blood, urine, breath or other bodily substance performed according to the standards promulgated by the Illinois Department of Public Health in consultation with the Department of State Police. (See 77 Ill. Adm. Code 510.)

"Circumvention" means an overt, conscious effort to bypass the BAID or any other act intended to start the vehicle without first taking and passing a breath test.

"Clinical Impression" means a qualified treatment professional's (see See Section 1001.440(b)(2) through (b)(6)) definition of "Alcohol or Drug Evaluation" opinion regarding the effectiveness of substance abuse treatment provided to an individual and the likelihood of future alcohol/drug-related problems. This constitutes the treatment professional's most reasonable clinical judgment based on direct involvement with the individual throughout the course of treatment. It should not be interpreted as a definitive statement regarding the likelihood of future alcohol/drug-related problems interpretation of specific data which is obtained during the treatment process regarding the effectiveness of treatment provided.

"BASA" means the Illinois Department of Alcoholism and Substance Abuse.

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"Department" means the Department of Administrative Hearings of the Office of the Secretary of State.

"Designated Driver Remedial or Rehabilitative Program" means an alcohol or drug evaluation, an alcohol or drug-related drug-related driver remedial program, an alcohol or drug treatment program, the Office driver improvement program, or any similar program intended to diagnose and change a petitioner's Petitioner's driving problem as evidenced by the petitioner's Petitioner's abstract. (See Sections 6-205(c) and 6-206(c)3 of the Code.)

"Device" means a breath alcohol ignition interlock device approved by the Secretary after consultation with DPH.

"Director" means the Director or Acting Director of the Department.

"Documentation of Abstinence" means testimony and documentation, in the form of affidavits, letters, etc., from individuals who have regular, frequent contacts with the petitioner Petitioner (e.g., spouse, significant other, employer, co-workers, roommates) verifying that to the best of their knowledge the petitioner Petitioner has been abstinent from alcohol/drugs for a specified period of time.

"Driver License Compact" is an agreement among signatory states which deals with the problems of: issuing drivers' licenses to people who move from one signatory state to another; and drivers who are licensed in one signatory state and convicted of traffic offenses in other such states States. The Said Compact has been codified in Illinois and is found in Chapter 6, Article VII, of the Code.

"DPH" means the Illinois Department of Public Health.

"DUI" means driving under the influence.

"DUI Disposition" means any conviction or supervision for DUI, or any conviction for reckless homicide when alcohol and/or drugs is recited as an element of the offense or other credible evidence indicates that the petitioner's/respondent's conduct causing death involved the use of alcohol or other drugs, or any conviction of reckless driving reduced from DUI, or any statutory summary suspension or implied consent suspension. Post-purposes of the Breath-Alcohol-Ignition Interlock Device-Pilot-Program, the definition of the term "BUI Disposition" shall include any conviction for reckless homicide.

"Employ" or "Employed" or "Employment" shall all relate to activity for compensation to support oneself or one's dependents as well as activities ordered by a court in connection with a sentence which includes the completion of a term of community service. Employment

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need not be the sole or primary means of support for the petitioner or his/her dependents.

"Evaluator" means any person licensed to conduct an alcohol and drug evaluation by OMSA BASA. (See 77 Ill. Adm. Code 2060.201, 2056-1) A treatment provider may be considered an evaluator for the purpose of completing an updated evaluation in accordance with Section 1001.440(a)(6)(A) of this Subpart.

"Failure to Successfully Complete a Rolling Retest" means anytime the BAID Permittee registers a BrAC reading of 0.05 or more on a rolling retest or fails to perform a rolling retest which has been requested.

"Fee" means the statutory fees for restricted driving permits or reinstatement of driving privileges, as specified in Section 6-118 of the Code.

"Hearing" means informal hearings and/or formal hearings.

"High Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner with:

Symptoms of substance dependence (regardless of driving record), referred to in this Part as High Risk Dependent; and/or

within the 10 year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving Convictions reduced from DUI, resulting from separate incidents, referred to in this Part as High Risk Nondependent. (See 77 Ill. Adm. Code 2060.503(q).)

"Initial Monitor Report" means the monitor report obtained or required to be obtained within the first thirty--( 30) days after initial installation of the device.

"Installer" means an individual trained by a BAID manufacturer to install and/or maintain a device and employed by a recognized service center, vendor or manufacturer.

"JDP" means a Judicial Driving Permit, as defined by Section 6-206.1 of the Code, which may be ordered by the court of venue to "first offenders" as defined in Section 11-501.1 of the Code.

"Level-I---Minimal-Risk" means the classification--resulting--from--an alcohol--and--drug--evaluation--assigned--to--a--Petitioner--who--has--no--prior conviction--or--court--ordered--supervision--for--BUI--or--statutory--summary

suspension--or--reckless--driving--conviction--reduced--from--BUI--and--a blood--alcohol--concentration--(BAE) of--less--than--.15--as--a--result--of--the most--current--arrest--for--BUI--and--no--other--symptoms--of--substance--abuse or--dependence--(See--77--Ill--Adm--Code--2056-310)

"Level-II---Moderate-Risk" means the classification--resulting--from--an alcohol--and--drug--evaluation--assigned--to--a--Petitioner--who--has--no--prior conviction--or--court--ordered--supervision--for--BUI--or--statutory--summary suspension--or--reckless--driving--conviction--reduced--from--BUI--and--a--blood alcohol--concentration--(BAE) of--.15--to--.19--or--a--refusal--of--chemical testing--as--a--result--of--the--most--current--arrest--for--BUI--and--no--other symptoms--of--substance--abuse--or--dependence--(See--77--Ill--Adm--Code--2056-310)

Level-III---Significant-Risk" means the classification--resulting--from an--alcohol--and--drug--evaluation--assigned--to--a--Petitioner--who--has--a prior--conviction--or--court--ordered--supervision--for--BUI--or--statutory summary--suspension--or--reckless--driving--conviction--reduced--from--BUI and/or--a--blood--alcohol--concentration--(BAE) of--.20--or--higher--as--a result--of--the--most--current--arrest--for--BUI--and/or--other--symptoms--of substance--abuse--(See--77--Ill--Adm--Code--2056-310)

"Level-III---High-Risk" means the classification--resulting--from an alcohol--and--drug--evaluation--assigned--to--a--Petitioner--with:

Symptoms of substance dependence (regardless of driving record) hereinafter referred to as Level-III-Dependent; and/or

two--prior--convictions--or--court--ordered--supervisions--for--BUI--or statutory--summary--suspensions--or--reckless--driving--convictions reduced--from--BUI--or--any--combination--thereof--resulting--from separate--incidents,--within--the--ten--(10)--year--period--prior--to--the date--of--the--most--current--(third--or--subsequent)--arrest; hereinafter referred to as Level-III-Non-Dependent--(See--77--Ill--Adm--Code--2056-310)

"Lockout" means the device must prevent engine ignition by a virtual lock with 90% certainty or near absolute lock at 99.5% certainty.

"Manufacturer" means the maker of a BAID or its authorized representative.

"Medical or Physical BAID Modification" means a demonstrated physical or medical condition documented in writing by a physician that consistently interferes with the normal operation of the BAID by the BAID Permittee for which the Department may authorize a modification of the BAID or its programming to accommodate the condition without sacrificing the intent of the BAID program.

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"Minimal Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has no prior conviction or court ordered supervision for DUI, no prior statutory summary suspension, and no prior reckless driving conviction reduced from DUI; and a blood alcohol concentration (BAC) of less than .15 as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Moderate Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has no prior conviction or court ordered supervision for DUI and no prior statutory summary suspension and no prior reckless driving conviction reduced from DUI; and a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Monitor Report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC reading, and any evidence of tampering or circumvention of the device.

"National Driver Register" means a central index, maintained by the U.S. Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

"OASA" means the Illinois Department of Human Services, Office of Alcoholism and Substance Abuse.

"Office" means the Office of the Secretary of State and not any particular department address or location.

"Permanent Lockout" means that feature of the device that prevents a vehicle with the device installed from starting after the lapse of the five--4 5+ days (see 92 Ill. Adm. Code 1001.442(b)(7)) and requires servicing by the manufacturer/installer of the device to make the vehicle operable for failure to take the vehicle with the device to the manufacturer or installer for any required monitor report or for any failure to send the device to the manufacturer within five--4 5+ days after any service or inspection notification.

"Petitioner" is the party who seeks or applies for relief from the Office from the suspension, revocation, cancellation, or denial of his/her driving privileges pursuant to the provisions of the Illinois Vehicle Code.

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"Program" means the BAID Pilot Program administered by the Secretary.

"RDP" means a restricted driving permit, as defined by Section 1-173.1 of the Code and limited as specified in Sections 6-205(c) and 6-206(c)3 of the Code.

"Recidivist" means an individual who had lost driving privileges due to a DUI disposition, received driving relief resulting from administrative hearing for a DUI disposition, the arrest date of which occurred on or after January 1, 1982, and thereafter received another DUI disposition causing a further loss of driving privileges regardless of whether it is the reason for the current loss of driving privileges. It shall also include any individual who has been issued a JDP and who, within three--4 3+ years after of that issuance date, appears at an administrative hearing for driving relief due to a the subsequent DUI disposition.

"Reinstatement" means the restoration of driving privileges entitling the petitioner to apply for a new driver's license in accordance with the requirements of the Illinois Vehicle Code and this Chapter the-Rules-promulgated-thereunder.

"Respondent" means a person against whom a complaint or petition is filed, or who, by reason of interest in the subject matter of a petition or of application or the relief sought through that action therein, is made a respondent Respondent or to whom an order or complaint is directed by the department Department initiating a proceeding.

"Rolling Retest" means that feature of the device that requires the driver to take additional another BrAC test(s) after the initial test to start the vehicle.

"Secretary" means the Illinois Secretary of State.

"Self-help-Program"--means--an--independent--non-profit--organization comprised-of-individuals-who-hold-voluntary-meetings--specifically--to help--each--member--to-achieve-and/or-maintain-abstinence-from-alcohol and/or-other-drugs;

"Service or Inspection Notification" means that feature of the device that advises or notifies the BAID Permittee to either take the vehicle with the device installed to the manufacturer or installer or send the device to the manufacturer for the required inspection and the monitor report.

"Service Center" means a dealer, distributor, supplier, or other business engaged in the installation of devices.



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"Significant Other" means any person with whom an individual is experiencing an ongoing, close association that represents a meaningful part of that individual's established life style (e.g., spouse, other family member, employer, co-worker, clergy member, roommate).

"Significant Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has one prior conviction or court ordered supervision for DUI, or one statutory summary suspension, or one prior reckless driving conviction reduced from DUI, or a blood alcohol concentration (BAC) of .20 or higher as a result of the most current arrest for DUI, or other symptoms of substance abuse, or both. (See 77 Ill. Adm. Code 2060.503(g).)

"Stressed" means conditions such as temperature extremes, vibration, and power variability.

"Support/Recovery Program" means specific activities which a recovering alcoholic/chemically dependent person has incorporated into his/her life style to help support his/her continued abstinence from alcohol and other drugs. This may include, but is not limited to, participating in a self-help program group (Alcoholics Anonymous, Narcotics Anonymous, etc.), or a professional support group, or regularly and frequently engaging in religious or other activities which have a distinct and positive effect on an individual's continued abstinence. Any program activity and its relationship to the individual's ability to remain abstinent must be clearly identified and verified by proper documentation independent from an individual's self report (such as indicated in Section 1001.440(e) through (i) of this Part). The hearing officer Hearing Officer shall determine the viability of the petitioner's program activity as a means of supporting continued abstinence, taking into account all the evidence brought forward at the hearing, as well as considering whether the program is substantially consistent with the following criteria:

The program encourages life style change which involves the replacement of substance using activity with non-substance using activity;

A strong focus of the program is to provide ongoing assistance in identifying and resolving substance dependency-related issues that may jeopardize an individual's continued recovery;

The program encourages positive individual values of responsibility and honesty, as well as less self-centered thinking;

The program has demonstrated a durability and stability over time

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that reflects its usefulness in supporting long-term recovery.

"tampering" means an overt, conscious attempt to disable or disconnect the BAID.

"24 Twenty-four Hour Lockout" means that feature of the device that causes a vehicle with the device installed to become inoperable for a period of 24 twenty-four hours any time the device registers three--t 3+ BrAC readings of 0.05 or more within a thirty--t 30+ minute period.

"Undue Hardship as It Relates relating it-relates to Educational Pursuits educational-pursuits" means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It is more than mere inconvenience to the petitioner petitioner, and pertains only to the petitioner petitioner. All other reasonable means of transportation must be unavailable to the petitioner petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue Hardship as It Relates relating to Employment employment" means, as used in the context of Sections 6-205(c) and 6-206(c)3 of the Code, an extreme difficulty in regard to getting to or from a petitioner's petitioner's place of employment or to operate on a route during employment; e.g., as delivery person, because of the suspension, revocation, or cancellation of the petitioner's petitioner's driving privileges. It is more than mere inconvenience on the petitioner petitioner and pertains only to the petitioner petitioner. All other reasonable means of transportation must be unavailable to the petitioner petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue Hardship as It Relates it-relates to Necessary Medical Care necessary-medical-care" means an extreme difficulty in regard to getting to and from a location where petitioner petitioner or a member of his/her immediate family receives examinations, therapy or treatment, etc., prescribed or recommended by a licensed physical or mental health care provider physician-and-in-the-case-of-a-diagnosis or-citizien-impression--of--alcoholism/chemical--dependency--where--a petitioner--is--participating--in--an--ongoing--support--program--as prescribed--or--recommended--by--a--physician--or--other--qualified professional. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's petitioner's driving privileges are suspended or revoked.

"Undue Hardship as It Relates to Support/Recovery Program" means an

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extreme difficulty in regard to getting to and from a location where a petitioner is participating in an ongoing support program. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Unsuccessful Attempt to Start the Vehicle" means anytime the BAIRD Permittee registers a BrAC reading of 0.025 or more when attempting to start the vehicle.

"Vehicle" for purposes of the Breath Alcohol Ignition Interlock Device Pilot Program, means every apparatus in, upon or by which any person or property is or may be transported or drawn upon a highway and that which is self-propelled, except for apparatuses moved solely by human power, motorized wheelchairs, and motorcycles.

"Vendor" means a retail or wholesale supplier of a device, and may include a service center.

"W/V" means weight of alcohol in the volume of breath based upon grams of alcohol per 210 liters of breath.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits

##### a) RDP Classifications

- 1) A petitioner Petitioner for an employment related RDP must be currently employed, or present a verifiable commitment for employment, and the employment must be verified upon forms prescribed by the Department. If the petitioner Petitioner is self-employed, evidence of self-employment can include, but is not limited to, stationery, business card, official receipt, check, State or Federal tax returns or letters from business associates.
- 2) A petitioner Petitioner for an a RDP for medical or treatment purposes must provide verifiable documentation from the licensed physical or mental health care provider doctor,--counselor--or program involved that the petitioner or a member of his/her household (who is unable to operate a motor vehicle) must receive or is receiving services on a regularly scheduled basis.
- 3) A petitioner Petitioner for an a RDP for court ordered community service must provide certified court documents detailing the terms of the service, including but not limited to the place or places the service is performed, the hours during which the

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service is to be performed and the nature of the service.  
4) A petitioner Petitioner for an educational RDP must be currently enrolled, or intend to enroll for the next available session intend-on-enrolling, in an accredited educational institution for the purpose of taking an accredited educational course or courses. Prior to the issuance of any educational RDP, the petitioner Petitioner must submit verification of such enrollment from the institution. The Such verification shall be on a form provided by the Secretary of State.

5) A petitioner for a support/recovery program RDP must provide verifiable documentation, from members of the group or program, that he/she has been attending meetings on a regular basis. A petitioner who wishes to begin or resume participation in a support/recovery program, but who resides alone or in a household in which there is no other licensed driver and resides in a remote location in or near a community in which public transportation is not available, will be considered for a support/recovery program RDP if the petitioner proves that he/she has been abstinent from all alcohol and drugs for a minimum of 12 months and has satisfied the other provisions of this Subpart.

b) An A RDP may be granted only after suspension, revocation, or cancellation for the offenses listed in Sections 6-205, 6-206, 6-303, 6-201(a)5 as it relates to 6-103.4, and 11-501.1, 11-501.6 and 11-501.8 of the Code. Petitioners who are eligible to apply for a JDP are not eligible for and will not be considered for an a RDP.

c) A petitioner Petitioner must prove by clear and convincing evidence that an undue hardship is currently being suffered as a result of the inability to legally operate a motor vehicle. Mere inconvenience to the petitioner Petitioner or family and friends is not undue hardship. The petitioner Petitioner should produce clear and convincing evidence as to the unavailability of reasonable alternative means of transportation, such as but not limited to: walking, mass transit, car pools, or being driven; how the petitioner Petitioner is currently getting to his/her destination; whether driving is required in the course of employment; the distance between the petitioner's Petitioner's residence and his/her destination; and similar factors relating to employment, necessary medical care, support/recovery program meetings, community service and/or educational pursuits.

1) Appropriate limits will be established for necessary on-the-job driving. The days, hours, and mileage limits will not exceed those absolutely necessary for the accomplishment of the petitioner's applicant's primary employment and shall be limited to a maximum of twelve-(12) hours per day and six-(6) days per week unless the request for increased limits is substantially documented, such as through an employer's verification of the petitioner's Petitioner's work schedule.

2) A support/recovery program medical RDP may include attendance at no more than three self-help-program meetings per week.



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3) An educational RDP will be subject to appropriate limits necessary to allow the petitioner to get to and from the subject institution/courses. The days and hours will not exceed those absolutely necessary for that purpose and shall be limited to a maximum of twelve (12) hours per day and six (6) days per week. Additional parameters to consider in setting these such limits shall include whether the petitioner commutes daily to the courses, is required to participate in clinical or student teaching programs in order to fulfill the requirements for a degree in his/her chosen field, or lives on or within a radius of one (1) mile from the campus and only needs to drive to and from the institution on an infrequent basis (less than once per week) and is then able to get to the courses by other means of transportation. The such permit shall expire at the conclusion of the period for in which it is granted the petitioner--is currently--enrolled---Each--new--enrollment--period shall require a new application for an educational RDP.

d) Factors which will be considered by the Department in determining the propriety of granting a petitioner an RDP include, but are not limited to: the petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner and witnesses in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permits were issued pursuant to the order of a circuit or appellate court following an administrative review action) and driving record while on such permits; driving history in another state if licensed previously; reports of probation and/or parole officers; and psychiatric reports where the evidence shows that petitioner is suffering or has suffered from a mental disorder which might affect his/her ability to operate a motor vehicle in a safe and responsible manner.

e) Pursuant to the effect of the issuance of an RDP upon public safety--will be--carefully--considered--before--any--RDP--is--granted--pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the public welfare and safety must not be endangered by the issuance of an RDP. The evidence must show that the petitioner will operate a motor vehicle safely, so as not to be a danger to himself or herself or others. The mere passage of time since the date of revocation is not sufficient evidence.

f) An RDP will not be issued while any ticket is pending against a petitioner him/her in any court of this or any other state, unless the pending citation or citations are also the only cause of the current

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loss of driving privileges an open summary suspension or suspensions.  
g) A petitioner who is otherwise eligible for an RDP may be referred to a remedial or rehabilitative program prior to the permit's issuance, if his/her driving record warrants these such measures. (See Sections 6-205(c) and 6-206(c)3 of the Code.)

h) A petitioner otherwise eligible for reinstatement of driving privileges or termination of a cancellation under Section 6-201(a)5, as it relates to 6-103.4, may be issued an RDP for a probationary or trial period prior to full reinstatement of driving privileges or termination of cancellation in cases where the petitioner has a poor driving record (evidenced by many minor violations or a few serious violations) or involvement as a driver in a traffic collision or collisions resulting in a death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, or has been evaluated as Moderate Risk, Significant Risk or High Risk Level--or Level--III by an alcohol/drug evaluation.

i) An RDP will be issued to an out-of-state resident only if he/she has a valid license to drive issued by the jurisdiction in which he/she resides; he/she has a verified employment, medical, community service or educational related need to drive in Illinois; and he/she complies with all other requirements of this Subpart.

j) An RDP will not be issued to a new resident of Illinois if his/her driving privileges are suspended or revoked in another jurisdiction until such time as that suspension or revocation is terminated. An RDP may be issued to a new resident of Illinois if his/her driving privileges are revoked in another jurisdiction under the following conditions:

1) At least one year has expired from the date of the revocation yet the revocation period has not expired; and

2) The petitioner submits written verification from the other jurisdiction indicating that an RDP or similar type of driving relief would be available if the petitioner were still a resident of that jurisdiction; and

3) The petitioner meets all other applicable requirements of this Subpart.

k) The Director or a designee shall make the final decision, on each petition application, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Hearing--Officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.

l) A petitioner will be required to complete and submit an investigative alcohol and drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:

1) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's petitioner's driving record contains, or other evidence indicates



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the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last ~~ten~~-10 years for which the petitioner/respondent Petitioner did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges; or

2) the petitioner/respondent the-Petitioner may be a user of alcohol or any other drug to a degree which renders that such-a person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code). The-Petitioner-will-be-required-to--complete--any recommended-rehabilitative-activity-or-provide-a-waiver--thereof. The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver.

- m) A petitioner Petitioner whose driving privileges have been revoked or cancelled or whose driver's license has expired will be required to submit to a driver's license examination prior to the issuance of an a RDP.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

# Section 1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation

- a) In all cases, a conviction in a court of law in Illinois or any other state is dispositive of the guilt of a petitioner Petitioner of the offense which caused his/her revocation.
- b) If revocation was for a cause that has been removed, such as the reversal of a conviction upon which revocation was entered, the petitioner Petitioner must demonstrate that fact by clear and convincing evidence.
- c) The factors which will be considered by the Department in determining the propriety of reinstating a petitioner Petitioner whose driving privileges have been revoked include but are not limited to: The petitioner's Petitioner's age; whether the petitioner Petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner Petitioner in the hearing; credibility of petitioner Petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's Petitioner's documentary evidence; petitioner's Petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permit was issued pursuant to the order of circuit or appellate court following an administrative review action), and driving record while on any permit; driving history in another state if licensed previously; reports of probation and/or parole officers; and

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psychiatric reports where the evidence shows that petitioner Petitioner is suffering or has suffered from a psychiatric disorder which might affect effect his/her ability to operate a motor vehicle in a safe and responsible manner.

- d) A petitioner Petitioner will be required to complete and submit an investigative alcohol drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates that:

- 1) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's Petitioner's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last ~~ten~~-10 years for which the petitioner/respondent Petitioner did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges; or

- 2) the petitioner/respondent Petitioner may be a user of alcohol or any other drug to a degree which renders that such-a person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code). The--Petitioner--will-be-required-to complete-any-recommended-rehabilitative--activity--or--provide--a waiver--thereof.

The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver.

- e) A petitioner Petitioner will be required to submit to a driver's license examination prior to the reinstatement of driving privileges if the such test has not been successfully completed in the preceding ~~twelve~~-12 months.

- f) In case of either subsection case-of-subsections (b) or (c), the public welfare and safety must not be endangered by the reinstatement of the petitioner's Petitioner's driving privileges. The petitioner Petitioner, if restored to full driving privileges, must operate a motor vehicle safely so as not to be a danger to himself or herself or other drivers on the road. The mere passage of time since the date of revocation is not sufficient evidence.

- g) A hearing for reinstatement will not be conducted at any time before the prescribed date of eligibility.

- h) The driving privileges of a petitioner Petitioner shall not be reinstated while any traffic offense is pending against him/her in any court.

- i) A petitioner who is driving on a restricted driving permit at the time of his/her hearing will not be considered for reinstatement, regardless of the petitioner's eligibility date, unless he/she has successfully completed driving on that permit for 75% of its length. However, a petitioner may appeal to the Director of the Department for a waiver of this provision when exigent circumstances warrant consideration of a waiver.

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petition applicant, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners Petitioners will receive a copy of the hearing officer's Hearing-Officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.

Section 1001.440 Provisions for Alcohol and Drug Related Revocations, and Suspensions, and Cancellations pursuant to Sections 6-205(a)2, 6-205(a)3, and 6-206(a)6, 6-206(a)17, 6-206(a)24, 6-206(a)31, 6-207, 6-203, 6-203.1 and 11-501.1

(k) Notwithstanding any other provisions of this Subpart, the following provisions for reinstatement of the Illinois driving privileges for certain out-of-state petitioners shall apply:

a) Except as provided in subsection (a)(1) below, in any application for reinstatement, an individual must submit a statement of the individual's reasons for the termination of an order of protection.

Out-of-state petitioners whose driving privileges are revoked in Illinois shall be granted reinstatement of Illinois driving privileges upon a showing that:

cancellation, all petitioners must submit an alcohol and drug evaluation and, where required, evidence of successful completion of an alcohol and drug-related driver remedial course and/or evidence

A) he/she is not currently a resident of the State of Illinois and resides more than 30 miles from the Illinois border;

of successful completion of treatment or proof of adequate rehabilitative progress.

B) at the time of arrest or arrests in Illinois for the violations that led to the revocation of the Illinois driving privileges, the petitioner was not licensed to drive

- 1) An alcohol and drug evaluation submitted by a resident of Illinois must have been conducted by an individual or an agency licensed by OASAS. An alcohol or drug-related remedial course

in Illinois, was a resident of a state or jurisdiction other than Illinois, and continues to reside in that or any other state or jurisdiction;

completed by an Illinois resident must have been provided by an individual or agency licensed by OASA BASA. (See 77 Ill. Adm. Code 2060.201.205C.5A.) Payments for these treatments will be

C) the petitioner is not currently seeking to reside in or be licensed to drive in the State of Illinois;

D) the state of residence and/or licensure of the petitioner at

allowed in the cases listed below. In such case, the evaluation and remedial course must be provided by an individual or agency

the time of the Illinois arrest(s) did not take action, or took action against the driving privileges of the petitioner based upon the Illinois arrest and the action has terminated;

A) if the petitioner is currently and has been continuously employed in a civilian occupation temporarily residing outside the state of Illinois, the petitioner must submit the state of Illinois' current and past employment records.

E) the petitioner is not prohibited from obtaining driving privileges in any state or jurisdiction other than Illinois; and

military capacity outside the State of Illinois (except a provided in Section 1001.100(a)(2) for a period of at least three (3) months);

F) the petitioner has paid all necessary fees due the State of Illinois.

B) if the petitioner ~~petitioner~~ received treatment for alcohol or drug abuse or dependence from a treatment program located outside the state of Illinois, has been

21) Out-of-state petitioners granted reinstatement under the provisions of this subsection (k), who subsequently apply for Illinois driving privileges and a driver's license within 10 years from the date of reinstatement in Illinois, shall be required to have an administrative hearing and meet all of the applicable requirements of this Subpart prior to the issuance of any Illinois driving privileges and a driver's license if, within the 10 years prior to the date of the application for the Illinois driver's license, the petitioner had:

- e) ~~is the petitioner a student at a college--university--or technical school located outside the State of Illinois.~~
- 2) The choice of these programs is within the discretion of the petitioner ~~petitioner~~. The evidence submitted must be typewritten, although the evaluator may testify at any hearing.
- 3) The Department may provide petitioners ~~petitioners~~ who inquire with a list of programs, from which the petitioner ~~petitioner~~ may choose an evaluator and remedial programs, but the petitioner

A) any DUI disposition; or  
B) committed any offense that if committed in Illinois would result in the suspension or revocation of driving privileges.

4) The alcohol and drug evaluation (uniform report), as defined in section 100.410, must conform to the standards for drug evaluation. The petitioner is not limited to the use of persons or programs on this list.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

set by OASA BASA. (See 77 Ill. Adm. Code 2060.503 2056-3057.1) The evaluation must be signed and dated by both petitioner

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5) The alcohol and drug-related driver remedial program must, at a minimum, conform to the standards for alcohol/drug remedial



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education courses set by OASA BASA. (See 77 Ill. Adm. Code 2060.505 ~~956--Subpart-B~~.)

- 6) The alcohol and drug evaluation must be current, which is defined as having been completed within ~~six~~ 6 months prior to ~~of~~ the date of the hearing. This current evaluation, whether a uniform report or an updated evaluation, must conform to all current OASA standards as referred to in this Section, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D.

A) An updated evaluation shall be conducted only by means of an in-person interview and only by the same program which conducted the original evaluation. Exceptions to the latter ~~these~~ requirement will be allowed under the following circumstances ~~detailed below~~:

- 1) If the petitioner's ~~Pettitioner's~~ case file or copies of all case file material are transferred to another program which prepares the update. ~~The Such~~ transfer will be considered acceptable only if the original evaluating program can no longer provide evaluation services for reasons such as a suspended or revoked license or voluntarily terminating evaluation business operations. If an update cannot be obtained by reviewing the original case file information, another original evaluation must be submitted.

- 2) If the petitioner ~~Pettitioner~~ completes treatment recommended as a result of the most recent alcohol and drug evaluation, the program providing the ~~such~~ treatment may prepare any subsequent updated evaluation from ~~its~~ their own case file information without obtaining the ~~such~~ information from the evaluating program that made the treatment recommendation.

- B) An updated evaluation shall contain, at a minimum, the following: a description of alcohol/drug use and/or abuse covering the time since the last evaluation or update; any impairment of significant life areas since the last evaluation or update; the evaluator's previous and current alcohol/drug-use classification of the petitioner ~~Pettitioner~~; any current recommendation~~s~~ and the rationale for such recommendation~~s~~; and an indication of whether the petitioner ~~that--Pettitioner--or--has--not~~ has completed all prior recommendations. The updated evaluation must be corroborated by an interview with a family member or significant other. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner ~~Pettitioner~~. The updated evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator.

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(See subsection (a)(1) of this Section.)

- 1) Any updated evaluation that ~~reclassifies a~~ petitioner ~~Pettitioner~~ to or within a Moderate, Significant or High Risk classification ~~level--if--~~ if shall include a referral to a treatment provider for the purpose of determining the need, if any, for additional rehabilitative activity. Any waiver of additional rehabilitative activity by the treatment provider must be in writing and include the rationale for the waiver. Any recommendation for additional rehabilitative activity must be complied with before relief will be granted.

- 2) A petitioner ~~Pettitioner~~ may not submit an updated evaluation if the uniform report evaluation being updated does not discuss the most recent DUI disposition. In such case the petitioner ~~Pettitioner~~ must submit a uniform report evaluation.

- C) An out-of-state alcohol and drug evaluation shall contain, at a minimum, the following: a complete alcohol and drug use history; a history of any alcohol and drug-related offenses; a current alcohol/drug use classification of the petitioner ~~Pettitioner~~ and the rationale for that classification; any recommendation~~s~~ and the rationale for such recommendation~~s~~. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner ~~Pettitioner~~. The evaluation must be verified by the evaluator. The individual or agency that completes the evaluation must be properly accredited or licensed in the state in which the individual or agency operates.

- D) An investigative alcohol and drug evaluation shall contain, at a minimum, the following: a complete alcohol and drug use history; a history of alcohol and drug-related driving and criminal offenses; a clinical impression of what the evaluation data indicates and the rationale for that conclusion; any recommendation~~s~~ and the rationale for such recommendation~~s~~. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner ~~Pettitioner~~. The evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator. The program that completes the evaluation must meet the same standards as programs qualified to prepare uniform report evaluations. (See subsection (a)(1).)



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E) Petitioners classified at High Risk who have driven successfully on a restricted driving permit for at least 3 years after submitting an original evaluation are not required to provide an updated evaluation if:

- i) the petitioner files for an extension of the RDP or for another hearing during the term of the current RDP; or
- ii) the current RDP is expired for more than 30 days at the time the petitioner files for an extension of the RDP or for another hearing.

All other documentation required by this Subpart D must be submitted.

7) Any alcohol or drug related remedial course required by this Part must be completed on a date after the most recent DUI disposition arrest date.

b) Before any driving relief will be granted, the petitioner Petitioner must prove by clear and convincing evidence: that he/she does not have a current problem with alcohol or other drugs; that he/she is a low or minimal risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that he/she has complied with all other standards as specified in this Subpart D. If the evidence establishes that the petitioner Petitioner has had an alcohol/drug problem, the petitioner Petitioner must also prove that the said problem has been resolved.

1) Petitioners whose use of alcohol/drugs has been classified under the Section as Level-1 Minimal Risk must document successful completion of a 10 hour alcohol/drug remedial education course by submission of a document which reflects the completion of the requirements contained in 77 Ill. Adm. Code 2060.505 20567.

#### Subpart-B.

2) Petitioners whose use of alcohol/drugs has been classified under this Section as Level-1 Moderate or Significant Risk must document successful completion of an alcohol/drug remedial course as specified in subsection (b)(1) above and the treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The treatment must be provided by an individual or agency licensed to provide such treatment by OASA BASA or the Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates.

3) Petitioners classified under this Section as High Risk Level-1 Dependent must document abstinence as required in subsection (e) below; the completion of treatment provided by a facility or facilitator licensed by OASA BASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional

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Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; the establishment of an ongoing support/recovery program; and compliance with any additional recommendations of his/her evaluator or treatment provider.

4) Petitioners Petitioner's classified under this Section as High Risk Nondependent Level-1 Non-Dependent must document: non-problematic use as provided in subsection (f) below; treatment provided by a facility or facilitator licensed by OASA BASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; compliance with any additional recommendations of his/her evaluator or treatment provider, including abstinence; and a detailed explanation the further assessment by the treatment provider as to why dependency was ruled out to identify the disorder causing the high-risk behavior as required by BASA. See 77 Ill. Adm. Code 2056.315.

5) Petitioners who obtain an investigative alcohol/drug evaluation must document the completion of any recommended treatment provided by a facility or facilitator licensed by OASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates. If found to be chemically dependent, then the petitioner must prove abstinence as required in subsection (e) and the establishment of an ongoing support/recovery program, and compliance with any additional recommendations of his/her evaluator or treatment provider.

6) In the event that a treatment provider does not require an individual classified Moderate, Significant or High Risk Level-1 or Level-1 to complete at least the minimum amount and type of intervention or treatment specified by OASA BASA, the treatment provider must supply the Department with a detailed explanation of the rationale for that decision. The treatment provider may not, however, under any circumstances, waive further assessment and counseling required of any Petitioner classified Level-1 Non-Dependent.

c) The presence of more than one DUI disposition on a petitioner's Petitioner's abstract shall create a rebuttable presumption that the petitioner Petitioner suffers from a current alcohol/drug problem and should, therefore, be classified at least as Level-1 Significant Risk.

d) Evidence which shall be considered in determining whether the petitioner Petitioner has met his/her burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not

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limited to, the following, where applicable:

- 1) The factors enumerated in Section 1001.430(c) above;
- 2) The similarity of circumstances between alcohol or drug-related arrests;
- 3) Any property damage or personal injury caused by the petitioner while driving under the influence;
- 4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change therefor;
- 5) The chronological relationship of alcohol/drug-related arrests;
- 6) Length of alcohol/drug abuse pattern;
- 7) Degree of self-acceptance of alcohol/drug problem;
- 8) Degree of involvement in or successful completion of prior treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;
- 9) Prior relapses from attempted abstinence;
- 10) Identification, treatment and resolution of the cause of the any disorder-causing high risk behavior as-found-in-a-further assessment-required of any petitioner Petitioner classified High Risk Nondependent Beve-i-iii, Non-Dependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's Petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;
- 12) The petitioner's Petitioner's explanation for his/her multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;
- 13) In out-of-state petitions the evaluator's rationale for classifying a petitioner Petitioner with multiple DUI dispositions as a Minimal or Moderate Risk non-problematic-user (Beve-i-ii). In these such cases it is particularly important that the evaluator's classification be based on complete and accurate information;
- 14) The petitioner's criminal history, particularly drug offenses or offenses that in any way involved alcohol/drugs;
- 15) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;
- 16) The extent to which, in terms of completeness and thoroughness, a petitioner and his/her service providers have addressed every issue raised by the hearing officers in previous hearings;
- 17) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations which

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deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon and the degree to which the evaluation deviates from this standard and the standards imposed by OASA BASA.

- e) Petitioner classified as High Risk Beve-i-iii Dependent, or any other Petitioner with a recommendation of abstinence by an OASA BASA licensed evaluator or treatment provider, must should have a minimum of twelve-4 12 consecutive months of documented abstinence. Documentation of abstinence must be received from at least three-4 3 independent sources. The sources should not be fellow members of a support group unless those members have regular and frequent contact with the petitioner Petitioner outside the group meetings. The hearing Officer Hearing-Officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Letters or witness testimony establishing abstinence should contain, at a minimum, the following:
  - 1) The person's relationship to petitioner Petitioner (friend, family member, fellow employee, etc.);
  - 2) How long the person has known the petitioner Petitioner;
  - 3) How often the person sees the petitioner Petitioner (daily, weekly, monthly, etc.);
  - 4) How long the person knows the petitioner Petitioner has abstained.
  - 5) Each letter letters must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.
- f) Waivers of the rule requiring 12 months of abstinence are discretionary when considering an RDP but shall not be granted unless the petitioner Petitioner proves at least six-4 6 months continuous abstinence at the time of the hearing. When waivers are granted-Petitioner shall be required-to-supply-the-Secretary-with monthly-documentation--of--involvement-in-the-support-program-or-the RDP-will-be-cancelled. Petitioner classified as High Risk Nondependent Beve-i-iii--Non Dependent must demonstrate at least twelve-4 12 consecutive months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs. This evidence must be submitted from at least three-4 3 independent sources and generally comply with the standards set forth in subsection (e) above. Waivers are discretionary when considering an RDP, but shall not be granted unless the petitioner Petitioner demonstrates at least six-4 6 months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs.



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- g) If the petitioner Petitioner has been attending a support/recovery self-help program, such-as-Alcoholics Anonymous-or-Narcotics Anonymous, the petitioner must Petitioner-should present at least 3 three dated and signed letters or witness testimony from fellow support/recovery self-help program members documenting at a minimum the following:
- 1) How long the person has known the petitioner Petitioner.
  - 2) How long the petitioner Petitioner has attended the program.
  - 3) How often the petitioner Petitioner attends the program.
- h) A petitioner's participation in internet Alcoholics Anonymous, Narcotics Anonymous or other support/recovery program "chat rooms" or any other support/recovery program services available over the internet is not an acceptable substitute for the regular attendance of meetings in person. However, such participation will be considered as probative of the extent of the petitioner's involvement in a support/recovery program: i.e., as a supplement to the regular attendance of meetings in person.
- i) If the petitioner's Petitioner's support/recovery program does not involve a structured, organized, recognized program such as A.A. or N.A., the petitioner Petitioner is required to identify what that program is and explain how it works and keeps petitioner Petitioner abstinent. The petitioner Petitioner is required to present either witness testimony or written verification of the program from at least three three independent sources involved in the program--which-if. If the verification is in the form of letters, those letters should be signed and dated, and-which All such evidence must contain, at a minimum, the following:
- 1) The person's relationship to the petitioner Petitioner (friend, family member, fellow employee, etc.).
  - 2) How long the person has known the petitioner Petitioner.
  - 3) How often the person sees the petitioner Petitioner (daily, weekly, monthly, etc.).
  - 4) How the person is involved in the petitioner's Petitioner's recovery program and what role the person plays in helping the petitioner Petitioner abstain from alcohol/drugs.
  - 5) What changes the person has seen in the petitioner Petitioner since petitioner's Petitioner's abstinence.
- j) If the petitioner Petitioner has a support/recovery self-help program sponsor, one the letter should be obtained from his/her sponsor documenting the above data in subsection (g).
- k) In cases where a petitioner Petitioner seeks a restricted driving permit to allow him/her to drive to support/recovery self-help program meetings, he/she must provide specific information identifying, at a minimum, the following:
- 1) The locations of the meetings he/she wishes to attend;
  - 2) The days of the week when meetings are held at these locations;
  - 3) The hours of the day when these meetings are held.
- l) if the petitioner has undergone early intervention (Moderate Risk

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- classification), he/she must provide a narrative summary which includes, at a minimum, the following:
- 1) The name, address, and telephone number of the licensed service provider;
  - 2) The dates the petitioner began and completed early interventions, as well as the number of days or hours he/she was involved in the interventions process;
  - 3) A summary discussion of the intervention provided and its outcome, specifically, those issues that were addressed or explored and the provider's perception of what the petitioner gained from the experience and his/her ability to avoid future development of alcohol problems;
  - 4) The rationale for any modification in the early intervention requirements specified by OASA;
  - 5) The dated signature of the professional staff person providing the early intervention information.
- m) If the petitioner Petitioner has had alcohol or drug related treatment, he/she must provide the following information:
- 1) A narrative summary which includes, at a minimum:
    - A) The name, address, and telephone number of treatment center.
    - B) The date the petitioner Petitioner entered treatment and the date the petitioner Petitioner was discharged from treatment; the number of days or hours the petitioner Petitioner was involved in treatment; the admitting and discharge diagnosis.
    - C) The type of treatment received, (e.g., outpatient, intensive outpatient, or inpatient treatment; individual or group therapy).
    - D) A clinical impression or prognosis of either a Moderate or Significant Risk petitioner's level-if-Petitioner's ability to maintain a non-problematic pattern, or a High Risk petitioner's level-if-Petitioner's ability to maintain a stable recovery where applicable. Specifically, the treatment provider's perception of what the petitioner Petitioner gained from the treatment experience and whether the experience was sufficient to substantially minimize the possibility of a recurrence of alcohol/drug related problems.
    - E) Any recommendations for continuing care aftercare or follow-up support, and an indication of the petitioner's Petitioner's participation, if applicable.
    - F) The rationale rationale for any modification in the treatment requirements specified by OASA BASA.
    - G) The dated signature of the professional staff person providing the treatment information.
- 2) Copies of the following documents required by OASA BASA:
- A) Individualized Treatment Plan. (See 77 Ill. Adm. Code 2060.421 2058-999.)



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B) Discharge Summary and Continuing Care Aftercare Plan. (See 77 Ill. Adm. Code 2060.427 #050-339.)

3) A current status report regarding the petitioner's involvement in continuing care. This report must discuss the petitioner's level of progress in completing follow-up activities outlined in the Continuing Care Plan. If continuing care has been completed, a summary report must be provided which discusses the petitioner's progress throughout the course of completing all follow-up activities detailed in the Continuing Care Plan. If continuing care has been determined to be unnecessary, a report must be provided which discusses the clinical rationale for that decision.

4) If the petitioner Petitioner is unable to provide the required information, he/she must provide documentary evidence of his/her attempts to obtain the information same and the reason for its unavailability.

n) If a petitioner Petitioner presents an alcohol/drug evaluation that was obtained as a condition precedent to either obtaining a JDP or the disposition of a DUI charge, that evaluation must meet the requirements of this Section in order to be accepted by the Secretary of State.

o) Out-of-state petitioners Petitioners whose last arrest for driving under the influence occurred more than 10 years from the date of the current application for relief before January 1, 1980 may be excused from the requirement of an evaluation if the other evidence required of the petitioner Petitioner, as set out in this subsection hereinafter, indicates that the petitioner Petitioner does not have a current problem with alcohol or other drugs; that, if the petitioner Petitioner has had an alcohol problem, it has been resolved; that the petitioner Petitioner is now a low or minimum risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that the petitioner Petitioner can now be considered a safe and responsible driver. The rationale for this subsection rule is that the length of time since the petitioner's Petitioner's last DUI arrest indicates he/she is no longer a dangerous driver, and that Illinois' interest in a driver who no longer resides in this state is less than in one who resides in Illinois. Therefore, this exception does not apply to petitioners who reside within 30 miles of the Illinois border.

1) Petitioner must submit, at a minimum, the following evidence:  
A) An affidavit regarding his/her alcohol/drug use, on a form provided by the Secretary of State.

B) At least three 3) letters of reference which, at a minimum, verify the frequency and amount of the petitioner's Petitioner's alcohol/drug use for at least the last twelve 12) months prior to the hearing. The Said letters should also discuss the petitioner's Petitioner's character and ability to be a safe and responsible driver. The author

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must state how long he/she has known the petitioner Petitioner, how often he/she sees, speaks to, or otherwise has contact with the petitioner Petitioner, the nature of the said contact, and the nature of their relationship.

C) If the petitioner Petitioner was required to participate in an alcohol/drug evaluation after his/her last arrest for driving under the influence, then the petitioner Petitioner must submit a copy of that evaluation.

D) If the petitioner Petitioner has received treatment for alcohol/drug abuse, then he/she must submit a copy of the discharge summary of that treatment (written by the agency which provided the treatment).

E) Petitioners who have been identified as or believe themselves to be alcoholic/chemically dependent must fulfill the requirements of subsection (b)(3) above pertaining to abstinence and the establishment of an ongoing support/recovery program.

F) Credible evidence of his/her driving record in the current state of residence. The Secretary of State may also obtain this evidence.

G) Any other relevant evidence which the petitioner Petitioner desires to provide.

2) Upon receipt of this evidence, it shall be reviewed by the Director of the Department, or a duly appointed hearing officer Hearing-Officer designated by the Director, for the purpose of determining whether the requirement of an alcohol/drug evaluation should be waived and the out-of-state petition disposed of based upon the evidence listed in subsection (o)(1) above. The factors recited in subsection (d) above shall be utilized and applied in making this determination.

(Source: Amended at 24 Ill. Reg. 192573, effective DEC 13 1980)

## Section 1001.450 New Hearings

If a petitioner Petitioner is denied relief after a formal hearing conducted pursuant to the Rules of Subpart A hereof, either for cause or upon default, another formal or informal hearing will not be granted to that petitioner regarding the same relief requested at the last hearing Petitioner until at least four 4) months have elapsed since the date of the hearing.

(Source: Amended at 24 Ill. Reg. 192573, effective DEC 13 1980)

## Section 1001.470 Renewal, Correction and Cancellation of RDPs

a) The holder of an a RDP granted as a result of a formal hearing

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decision, if still valid or expired for 30 days or less, and who is required to apply for reinstatement through a formal hearing. (See Section 1001.600) may apply for a new RDP through an informal hearing, using the procedures set forth in Subpart C of this part and providing all documentation required in Subpart D in cases which are alcohol/drug related.

- b) Petitioners who are required to apply for relief at a formal hearing, or who choose to apply for relief at a formal hearing and who are issued an RDP, may apply for additional RDPs for different purposes at informal hearings. Petitioners so situated must produce the same evidence at the informal hearing as would have been required for favorable consideration at a formal hearing. Additionally, petitioners who are issued one type of RDP but denied another type of RDP at a formal hearing may apply for the denied type of RDP at an informal hearing upon a showing of a relevant change of circumstances. c) Corrected RDPs will be issued to make necessary changes to the information on the RDP if the changes in employment and driving limits are documented and verified. Corrected RDPs will expire on the same date as the original permit. d) RDPs will be cancelled or invalidated pursuant to Sections 6-103, 6-303, 6-113, 6-201, 6-205(a), and 6-206(a) of the Code. The Secretary of State reserves the authority to cancel any restricted driving permit previously issued to a petitioner when the preponderance of the evidence taken at a subsequent hearing demonstrates that the petitioner can no longer be considered a low risk to repeat his/her past abusive behavior and be a safe and responsible driver, has regressed in his/her recovery from an alcohol/drug problem, or otherwise in any way is no longer in compliance with the standards specified in this Subpart D.

(Source: Amended at 24 Ill. Reg. 1001.600, effective 01-15-2000)

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES; PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT HEARINGS; RESTRICTED DRIVING PERMITS

## Section 1001.610 Definitions

All of the definitions contained in Subparts A, C, and D shall apply where applicable.

"Drugs" means drugs as defined in Section 3 of the Pharmacy Practice Act of 1987 [225 ILCS 85/3].

"Independent source" means a parent, legal guardian, person in loco parentis, spouse, roommate of the petitioner, or member of the clergy or the religious organization in question, all of whom must have

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firsthand knowledge of the matters verified.

"Medical or pharmacological expert" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches, or a person licensed under Section 3 of the Pharmacy Practice Act of 1987 [225 ILCS 85/3], or similar law of another jurisdiction, or any laboratory certified by the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 510.120, or any person certified by either the American Board of Forensic Toxicology or the American Board of Toxicology.

"Medicine" means and includes all drugs intended for human use approved by the United States Food and Drug Administration.

"Recommended dosage" means the strength, quantity and frequency of use of the medicine as recommended by a medical or pharmacological expert, or as set forth by the label directions or other packaging information for over-the-counter medicines.

"Religious service or ceremony" means the coming together of a group of persons with the same or similar religious beliefs for the purpose of exercising those beliefs.

(Source: Amended at 24 Ill. Reg. 1001.600, effective 01-15-2000)

## Section 1001.670 Petitions for Restricted Driving Permits

- a) Petitioners who apply for a restricted driving permit pursuant to paragraph (e) of Section 11-501.8(e) of the Code must submit to an investigative alcohol/drug evaluation, as defined in Section 1001.400 of Subpart D of this Part, as part of the Secretary's investigative process, when the evidence indicates that:
- 1) the petitioner submitted to the requested chemical test and registered an alcohol concentration between 0.04 0-05 and less than 0.08 0-10; or
  - 2) the petitioner may be a user of alcohol or any other drug to a degree which renders him/her incapable of safely driving a motor vehicle (see Section 6-103.4 of the Code).
- b) Petitioners who apply for a restricted driving permit pursuant to paragraph (e) of Section 11-501.8(e) of the Code must submit to an alcohol/drug evaluation uniform report, as defined in Section 1001.400 of Subpart D of this Part, as part of the Secretary's investigative process, when the evidence indicates that:
- 1) the petitioner submitted to the requested chemical test and registered an alcohol concentration of 0.08 0-10 or more; or
  - 2) the petitioner's driving record reflects a DUI disposition, as defined in Section 1001.400 of Subpart D of this Part.

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- c) The petitioner is required to complete any recommended and/or required rehabilitative activity which pertains to the evaluation's classification of his/her use/abuse of alcohol/drugs or provide a written waiver thereof, prior to the issuance of any restricted driving permit.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: High Risk Home Loans
- 2) Code Citation: 38 Ill. Adm. Code 345
- 3) Section Number Emergency Action  
345.130 New  
345.140 New  
345.150 New
- 4) Statutory Authority: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48(a)].
- 5) Effective Date of Rule: December 15, 2000
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date Filed in Agency's Principal Office: December 15, 2000
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Office of Banks and Real Estate (OBRE) has been gathering testimony for the last 18 months on the high foreclosure rates on residential property that have occurred in this State. OBRE is separately proposing a comprehensive rulemaking to address this complex issue. Included in that submission will be a requirement that all licensees and charters under the jurisdiction of OBRE file semiannual reports detailing their company's individual default and foreclosure rate on conventional loans. This data will be essential in enabling OBRE to calculate what is a reasonable default and foreclosure rate and, more importantly, what constitutes a default and foreclosure rate that is so high as to warrant corrective action. Every day additional Illinois citizens enter into mortgage loans that will in all probability result in foreclosure on their property. It is essential that OBRE begin the collection of data on default and foreclosure rates immediately and not wait until the regular rulemaking process ends. By collecting this data under an emergency rulemaking, OBRE will have data as early as February. Otherwise, OBRE will not have data until August. This data collection is an essential first step in protecting Illinois consumers from unscrupulous lenders.
- 10) A complete description of the subjects and issues involved: The emergency rules provide for the filing of default and foreclosure rate data with the Commissioner. This data will allow the Commissioner to commence regulatory action against any entity whose default and foreclosure rate exceeds the norm.



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

- 11) Are there any proposed rulemakings pending to this Part? No
- 12) Statement of Statewide Policy Objectives: This rule will not affect local government.
- 13) Information and questions regarding this rule shall be directed to:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe  
Springfield, Illinois 62701  
217/782-3000

The full text of the emergency rules begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY RULES

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE  
PART 345  
HIGH RISK HOME LOANS

## Section

- 345.130 Report of Default and Foreclosure Rates on Conventional Loans  
EMERGENCY
- 345.140 Commissioner's Authority - Unusually High Rate on Conventional  
EMERGENCY Loans
- 345.150 Commissioner's Action - Unusually High Rate on Conventional Loans  
EMERGENCY

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48(6)(a)].

SOURCE: Adopted by emergency rulemaking at 24 Ill. Reg. effective \_\_\_\_\_, for a maximum of 150 days.

Section 345.130 Report of Default and Foreclosure Rates on Conventional Loans  
EMERGENCY

- a) On or before August 1 and February 1 of each year, each bank who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.
- b) Each bank shall report for each loan in default or foreclosure:
- 1) name of borrowers;
  - 2) address of the property mortgaged;
  - 3) census tract of the property mortgaged;
  - 4) status of the loan (default or foreclosure);
  - 5) date the loan was consummated;
  - 6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;
  - 7) name and address of any non-licensed or exempt entity that originated the loan.

Section 345.140 Commissioner's Authority - Unusually High Rate on Conventional  
Loans  
EMERGENCY

The Commissioner may take any action permitted under Section 345.150 or any other Section of this Part whenever the Commissioner determines that a bank's report under Section 345.130 on the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that

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particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A bank's rate that exceeds such average shall be considered unusually high.

**Section 345.150 Commissioner's Action - Unusually High Rate on Conventional Loans**  
**EMERGENCY**

- a) Whenever a bank's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 345.140, the Commissioner shall:
  - 1) conduct an examination of the bank;
  - 2) enter into a supervisory agreement with the bank to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;
  - 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:
    - A) requiring use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;
    - B) providing of a counseling video to borrowers of future loans;
    - C) mandating that all prospective borrowers bring their loan applications to the Commissioner for a Third Party Review as described in Section 345.160 of this Part;
    - D) levying fines;
    - E) using other regulatory means up to and including issuance of a cease and desist order.
- b) When the loan analysis described in Sections 345.130(a) and 345.140 shows that a licensee under the Residential Mortgage Licensing Act acting as broker or originator is contributing to the high default and foreclosure rate of the reporting bank, that broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Illinois Savings and Loan Act of 1985
- 2) Code Citation: 38 Ill. Adm. Code 1000
- 3) 

<u>Section Number</u>	<u>Emergency Action</u>
1000.3650	New
1000.3700	New
1000.3750	New
- 4) Statutory Authority: Implemented and authorized by the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)].
- 5) Effective Date of Amendment: December 15, 2000
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date Filed in Agency's Principal Office: December 15, 2000
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Office of Banks and Real Estate (OBRE) has been gathering testimony for the last 18 months on the high foreclosure rates on residential property that have occurred in this State. OBRE is separately proposing a comprehensive rulemaking to address this complex issue. Included in that submission will be a requirement that all licensees and charters under the jurisdiction of OBRE file semiannual reports detailing their company's individual default and foreclosure rate on conventional loans. This data will be essential in enabling OBRE to calculate what is a reasonable default and foreclosure rate and, more importantly, what constitutes a default and foreclosure rate that is so high as to warrant corrective action. Every day additional Illinois citizens enter into mortgage loans that will in all probability result in foreclosure on their property. It is essential that OBRE begin the collection of data on default and foreclosure rates immediately and not wait until the regular rulemaking process ends. By collecting this data under an emergency rulemaking, OBRE will have data as early as February. Otherwise, OBRE will not have data until August. This data collection is an essential first step in protecting Illinois consumers from unscrupulous lenders.
- 10) A complete description of the subjects and issues involved: The emergency rules provide for the filing of default and foreclosure rate data with the Commissioner. This data will allow the Commissioner to commence regulatory action against any entity whose default and foreclosure rate exceeds the norm.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENTS

- 11) Are there any proposed amendments pending to this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not affect local government.
- 12) Information and questions regarding this amendment shall be directed to:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe  
Springfield, Illinois 62701  
217/782-3000

The full text of the emergency amendments begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

## PART 1000

## ILLINOIS SAVINGS AND LOAN ACT OF 1985

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Section	
1000.110	Filings
1000.120	Conditions
1000.130	Examination Fees
1000.140	Annual Supervisory Fees (Repealed)
1000.141	Supervisory Fees
1000.142	Adjusted Supervisory Fees
1000.143	Special Assessment (Emergency Expired)
1000.150	Manner of Payment
1000.151	Special Credit (Repealed)

## SUBPART B: DEFINITIONS

Section	
1000.205	Introduction
1000.210	Association
1000.220	Commissioner
1000.230	Single Family Dwelling
1000.240	Unsafe
1000.250	Mobile Home
1000.260	Mobile Home Chattel Paper
1000.270	Person
1000.280	Proposed Borrower
1000.290	Redlining

## SUBPART C: REPORTS

Section	
1000.310	Contracts (Repealed)

## SUBPART D: OPERATIONS

Section	
1000.410	Permanent Reserve Shares
1000.420	Dividend Advertising
1000.430	Maintenance of Records
1000.440	Business Plan

## SUBPART E: APPRAISALS



## OFFICE OF BANKS AND REAL ESTATE

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Section  
1000.510 Appraisals

SUBPART F: INVESTMENTS

Section  
1000.610 Prudent Person Rule  
1000.615 Investment Underwriting Practices  
1000.620 Discrimination and Redlining Prohibited  
1000.630 Loans Secured by Real Estate  
1000.640 Construction Loans  
1000.650 College Loans (Repealed)  
1000.660 Mobile Home Financing  
1000.665 Other Loans  
1000.670 Collateral Loans (Repealed)  
1000.675 Investment Parity (Repealed)  
1000.680 Unsecured Loans (Repealed)  
1000.690 Sale of Loans and Participations (Repealed)  
1000.700 Insider Loan Rates (Repealed)  
1000.710 Reverse Mortgage Loans  
1000.720 Repurchase Agreements

## SUBPART G: BONUS PLANS

Section  
1000.810 Bonus Plans

## SUBPART H: NOTICE TO COMMISSIONER

Section  
1000.910 Corrective Action

## SUBPART I: SERVICE CORPORATIONS

Section  
1000.1010 Requirements  
1000.1020 Approval by the Commissioner  
1000.1030 Lending Limitations  
1000.1040 Investments by Service Corporations  
1000.1050 Ownership of Capital Stock of Service Corporation  
1000.1060 Prohibited Transactions  
1000.1070 Disclosure to Service Corporation  
1000.1080 Reporting Requirements  
1000.1090 Audit Requirements

## SUBPART J: RELOCATIONS AND BRANCHING

## Section

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENTS

1000.1110 General  
1000.1120 Application  
1000.1130 Request for Preliminary Determination  
1000.1140 Amendment of Application (Repealed)  
1000.1150 Public Notice and Inspection  
1000.1160 Protest  
1000.1170 Oral Argument  
1000.1180 Application for and Maintenance of Branch Office after Conversion,  
Consolidation, Purchase of Assets or Merger  
1000.1190 Redesignation of Offices  
1000.1200 Termination of Operation and/or Closing of a Branch Office  
1000.1210 Agency Offices  
1000.1220 Remote Drive-In and/or Remote Pedestrian Facilities

## SUBPART K: CAPITAL NOTES AND DEBENTURES

Section  
1000.1310 Approval  
1000.1320 Conversion to Stock  
1000.1330 Priority of Claim  
1000.1340 Effect on Reserve Requirements

## SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

Section  
1000.1410 General  
1000.1420 Depositors  
1000.1430 Rate of Interest  
1000.1440 Overdraft Privilege  
1000.1450 Charges and Fees  
1000.1460 Disclosure  
1000.1470 Membership  
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## SUBPART M: ADMINISTRATIVE HEARING PROCEDURES

Section  
1000.1510 Applicability  
1000.1520 Definitions  
1000.1530 Filing  
1000.1540 Form of Documents  
1000.1550 Computation of Time  
1000.1560 Appearances  
1000.1570 Notice of Hearing  
1000.1580 Service of the Notice of Hearing  
1000.1590 Motion and Answer  
1000.1600 Consolidation and Severance of Matters - Additional Parties  
1000.1610 Intervention

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENTS

1000.1620 Postponement or Continuance of Hearing  
 1000.1630 Authority of Hearing Officer  
 1000.1640 Bias or Disqualification of Hearing Officer  
 1000.1650 Prehearing Conferences  
 1000.1660 Discovery  
 1000.1670 Subpoenas  
 1000.1680 Conduct of the Hearing  
 1000.1690 Default  
 1000.1700 Evidence  
 1000.1710 Official Notice  
 1000.1720 Hostile Witnesses  
 1000.1730 Transcription of Proceedings  
 1000.1740 Briefs  
 1000.1750 Hearing Officer's Findings, Opinions and Recommendations  
 1000.1760 Order of the Commissioner  
 1000.1770 Rehearings  
 1000.1780 Existing Statutory or Agency Procedures and Practices  
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## SUBPART N: SAVINGS AND LOAN HOLDING COMPANIES

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 1000.1800 Applicability  
 1000.1810 Plain Meaning/Strict Interpretation  
 1000.1905 Affiliate  
 1000.1910 Assets  
 1000.1915 Books of Record  
 1000.1920 Capital Stock  
 1000.1925 Charter  
 1000.1930 Control  
 1000.1935 Eligible Account Holder  
 1000.1940 Eligibility Record Date  
 1000.1945 Employee  
 1000.1950 Equity Security  
 1000.1955 Insured Institution  
 1000.1970 Member  
 1000.1972 Net Worth  
 1000.1975 Officer  
 1000.1980 Person  
 1000.1982 Qualifying Deposit  
 1000.1985 Sale  
 1000.1990 Security  
 1000.1993 Source Documents  
 1000.1997 Subsidiary  
 1000.2005 Liquidation Account and Proxies  
 1000.2010 Mutual Holding Company Ceasing to be a Depository Institution  
 1000.2020 Directors of a Mutual Holding Company  
 1000.2030 Stock Sales

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1000.2040 Stock of a Subsidiary of a Mutual Holding Company  
 1000.2050 Stock Subsidiary Formation  
 1000.2055 Net Worth Maintenance Agreement  
 1000.2060 Members' Rights  
 1000.2070 Investment  
 1000.2105 Notice Requirement/Corrective Action  
 1000.2110 Insider Abuses  
 1000.2120 Penalty (Emergency Expired)  
 1000.2200 Determination of the Qualification and Condition of an Out-of-State Acquisition  
 1000.2300 Disposal of a Subsidiary  
 1000.2310 Dividends  
 1000.2320 Officers and Directors List  
 1000.2330 Access to Books and Records  
 1000.2340 Reports (Emergency Expired)  
 1000.2400 Annual Audit Requirements  
 1000.2410 Maintenance of Records  
 1000.2420 Notice of Appointment of CPA  
 1000.2500 Savings and Loan Holding Company Filing Fees  
 1000.2510 Savings and Loan Holding Company Supervisory Fees  
 1000.2520 Examination Fees  
 1000.2530 Conditions  
 1000.2540 Manner of Payment  
 1000.2550 Transformation from Deposit to Non-Deposit (Emergency Expired)

## SUBPART O: SAVINGS AND LOAN ADVISORY BOARD

Section  
 1000.2700 Purpose  
 1000.2710 Composition, Appointment

## SUBPART P: HIGH RISK HOME LOANS

Section  
 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans  
EMERGENCY  
 1000.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans  
EMERGENCY  
 1000.3750 Commissioner's Action - Unusually High Rate on Conventional Loans  
EMERGENCY

AUTHORITY: Implementing and authorized by Section 7-3(b)(2) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)].

SOURCE: Filed and effective January 18, 1974; amended at 2 Ill. Reg. 44, p. 179, effective October 30, 1978; emergency amendment at 2 Ill. Reg. 45, p. 169, effective November 1, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 883, effective January 29, 1979; amended at 3 Ill. Reg. 11, p. 163,

## OFFICE OF BANKS AND REAL ESTATE

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effective March 12, 1979; amended at 3 Ill. Reg. 19, p. 22, effective May 12, 1979; emergency amendment at 3 Ill. Reg. 39, p. 230, effective September 17, 1979, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 8, p. 207, effective February 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1241, effective July 14, 1980; emergency amendment at 5 Ill. Reg. 2524, effective February 19, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 7124, effective June 24, 1981; amended at 5 Ill. Reg. 7125, effective June 24, 1981; amended at 5 Ill. Reg. 11377, effective October 14, 1981; amended at 6 Ill. Reg. 3175, effective March 4, 1982; amended at 6 Ill. Reg. 4218, effective April 6, 1982; amended at 6 Ill. Reg. 4219, effective April 6, 1982; amended at 6 Ill. Reg. 4227, effective April 6, 1982; amended at 6 Ill. Reg. 7141, effective June 1, 1982; amended at 7 Ill. Reg. 1993, effective January 28, 1983; codified at 7 Ill. Reg. 13669; amended at 8 Ill. Reg. 8630, effective June 1, 1984; amended at 8 Ill. Reg. 15066, effective August 7, 1984; emergency amendment at 9 Ill. Reg. 17437, effective October 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4946, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14290, effective August 20, 1986; amended at 10 Ill. Reg. 19781, effective November 6, 1986; amended at 11 Ill. Reg. 20648, effective December 2, 1987; emergency amendment at 11 Ill. Reg. 20672, effective December 3, 1987, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 8106, effective April 20, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 15165, effective September 13, 1988; amended at 13 Ill. Reg. 8927, effective May 26, 1989; amended at 16 Ill. Reg. 4881, effective March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1000 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 1003] at 17 Ill. Reg. 4464; recodified from Chapter III, Commissioner of Savings and Residential Finance, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6707, effective March 30, 1998; amended at 24 Ill. Reg. 53, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 13312, effective \_\_\_\_\_, for a maximum of 150 days.

## SUBPART P: HIGH RISK HOME LOANS

### Section 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans

## EMERGENCY

- a) On or before August 1 and February 1 of each year, each charter who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.
- b) Each charter shall report for each loan in default or foreclosure:
  - 1) name of borrowers;
  - 2) address of the property mortgaged;

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- 3) census tract of the property mortgaged;
- 4) status of the loan (default or foreclosure);
- 5) date the loan was consummated;
- 6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;
- 7) name and address of any non-licensed or exempt entity that originated the loan.

(Source: Added by emergency rulemaking at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

### Section 1000.3700 Commissioner's Authority - Unusually High Rate on Conventional Loans

## EMERGENCY

The Commissioner may take any action permitted under the Act whenever the Commissioner determines based on a charter's report under Section 1000.3650 that the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A charter's rate that exceeds such average shall be considered unusually high.

(Source: Added by emergency rulemaking at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

### Section 1000.3750 Commissioner's Action - Unusually High Rate on Conventional Loans

## EMERGENCY

- a) Whenever a charter's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1000.3700, the Commissioner shall:
  - 1) conduct an examination of the charter;
  - 2) enter into a supervisory agreement with the charter to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement would include a timetable for achieving results;
  - 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:
    - A) required use of borrower balance sheet, cash flow statement, and income and expense forms on future loans;
    - B) providing of a counseling video to borrower's of future





OFFICE OF BANKS AND REAL ESTATE  
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TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE  
PART 1050  
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

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1050.115	Administrative Decision
1050.120	Assisting
1050.125	Commissioner
1050.130	Control
1050.135	Document
1050.140	Employee
1050.145	First Tier Subsidiary
1050.150	Hearing Officer
1050.160	Material
1050.165	Other Regulatory Agencies
1050.170	Party
1050.175	Principal Place of Business
1050.180	Repurchase a Loan
1050.185	State

SUBPART B: FEES

Section	
1050.210	License Investigation Fees
1050.220	License Fees
1050.230	Amended License Fees - Corporate Changes
1050.240	Duplicate Original License Fees
1050.250	Examination Fees
1050.255	Direct Expenses of Out-of-State Examinations
1050.260	Additional Full-Service Office Fees
1050.270	Hearing Fees
1050.280	Late Fees (Repealed)
1050.290	Manner of Payment

SUBPART C: LICENSING

Section	
1050.310	Application for an Illinois Residential Mortgage License
1050.320	Application for Renewal of an Illinois Residential Mortgage License
1050.330	Waiver of License Fee
1050.340	Full-Service Office
1050.350	Additional Full-Service Office

- OFFICE OF BANKS AND REAL ESTATE  
NOTICE OF EMERGENCY AMENDMENTS
- 11) Are there any proposed amendments to this Part Pending? No
  - 12) Statement of Statewide Policy Objectives: This rule will not affect local government.
  - 13) Information and questions regarding these amendments shall be directed to:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe  
Springfield, Illinois 62701  
(217) 782-3000

The full text of the Emergency Amendments begins on the next page.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENTS

## 1050.360 Continuing Education Requirements for Certain Employees

## SUBPART D: OPERATIONS AND SUPERVISION

## Section

- 1050.410 Net Worth
- 1050.420 Line of Credit (Repealed)
- 1050.425 Examination
- 1050.430 Late Audit Reports
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- 1050.630 Annual Report of Mortgage Activity
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- 1050.1110 Borrower Information Document
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## SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

## Section

1050.1910 Report of Default and Foreclosure Rates on Conventional Loans  
EMERGENCY

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1050.1920 Commissioner's Authority - Unusually High Rate on  
EMERGENCY Conventional Loans  
1050.1930 Commissioner's Action - Unusually High Rate on Conventional Loans  
EMERGENCY

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective October 20, 1989; amended of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 11111, effective January 1, 2000; for a maximum of 150 days.

## SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section 1050.1910 Report of Default and Foreclosure Rates on Conventional Loans  
EMERGENCY

- a) On or before August 1 and February 1 of each year, each licensee who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ended June 30 and December 31, respectively.
- b) Each licensee shall report for each loan in default or foreclosure:
- 1) name of borrowers;

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- and income and expense forms on future loans;  
B) providing of a counseling video to borrowers of future loans;  
C) mandating that all prospective borrowers become certified under the Mortgage Awareness Program prior to closing on a loan;  
D) putting the licensee on a probation status;  
E) levying fines;  
F) requiring a licensee to maintain a full service office in Illinois;  
G) using other regulatory means up to and including suspension and revocation of the license.
- b) When the loan analysis described in Sections 1050.1910(a) and 1050.1920 shows that another licensee acting as broker or originator is contributing to the high default and foreclosure rate of the reporting licensee, that broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

(Source: Added by emergency rulemaking at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

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- 2) address of the property mortgaged;  
3) census tract of the property mortgaged;  
4) status of the loan (default or foreclosure);  
5) date the loan was consummated;  
6) name and license number of licensee under the Act who originated the loan;  
7) name and address of non-licensed or exempt entity who originated the loan.
- (Source: Added by emergency rulemaking at 24 Ill. Reg. 1030.26, effective \_\_\_\_\_, for a maximum of 150 days)

Section 1050.1920 Commissioner's Authority - Unusually High Rate on Conventional Loans  
EMERGENCY

The Commissioner may take any action permitted to be taken by Section 1050.1930 of this Subpart or by any other Section of this Part whenever the Commissioner determines, based on a licensee's report under Section 1050.1910, that the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner for that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A licensee's rate that exceeds the average shall be considered unusually high.

(Source: Added by emergency rulemaking at 24 Ill. Reg. 1030.26, effective \_\_\_\_\_, for a maximum of 150 days)

Section 1050.1930 Commissioner's Action - Unusually High Rate on Conventional Loans  
EMERGENCY

- a) Whenever a licensee's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1050.1920, the Commissioner shall:
- 1) conduct an examination of the licensee;
  - 2) enter into a supervisory agreement with the licensee to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement will include a timetable for achieving results;
  - 3) use a variety of remedies in a supervisory agreement on a case-by-case basis to effect a lowering of the default and foreclosure rate on conventional loans, such as:  
A) required use of borrower balance sheet, cash flow statement.

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- 11) Are there any proposed amendments pending to this Part? No
- 12) Statement of Statewide Policy Objectives: This rule will not affect local government.
- 13) Information and questions regarding this amendment shall be directed to:

Jay Stevenson  
Assistant Commissioner  
Office of Banks and Real Estate  
500 East Monroe  
Springfield, Illinois 62701  
Telephone: (217) 782-3000

The full text of the emergency amendments begins on the next page:

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- 1) Heading of the Part: Savings Bank Act
- 2) Code Citation: 38 Ill. Adm. Code 1075
- 3) Section Number: Emergency Action:  
1075.3650 New  
1075.3700 New  
1075.3750 New
- 4) Statutory Authority: Implementing and authorized by the Illinois Savings Banking Act of 1990 [205 ILCS 205/9002(2)].
- 5) Effective Date of Amendment: December 15, 2000
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date Filed in Agency's Principal Office: December 15, 2000

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The Office of Banks and Real Estate (OBRE) has been gathering testimony for the last 18 months on the high foreclosure rates on residential property that have occurred in this State. OBRE is separately proposing a comprehensive rulemaking to address this complex issue. Included in that submission will be a requirement that all licensees and charters under the jurisdiction of OBRE file semiannual reports detailing their company's individual default and foreclosure rate on conventional loans. This data will be essential in enabling OBRE to calculate what is a reasonable default and foreclosure rate and, more importantly, what constitutes a default and foreclosure rate that is so high as to warrant corrective action. Every day additional Illinois citizens enter into mortgage loans that will in all probability result in foreclosure on their property. It is essential that OBRE begin the collection of data on default and foreclosure rates immediately and not wait until the regular rulemaking process ends. By collecting this data under an emergency rulemaking, OBRE will have data as early as February. Otherwise, OBRE will not have data until August. This data collection is an essential first step in protecting Illinois consumers from unscrupulous lenders.

10) A complete description of the subjects and issues involved: The emergency rules provide for the filing of default and foreclosure rate data with the Commissioner. This data will allow the Commissioner to commence regulatory action against any entity whose default and foreclosure rate exceeds the norm.



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TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: OFFICE OF BANKS AND REAL ESTATEPART 1075  
SAVINGS BANK ACT

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1075.100 Filings  
1075.110 Conditions  
1075.120 Examination Fees  
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1075.140 Adjusted Supervisory Fees  
1075.141 Special Credit (Repealed)

## SUBPART B: DEFINITIONS

## Section

1075.200 Definitions

## SUBPART C: REPORTS

## Section

1075.300 Contracts  
1075.310 Financial Reports

## SUBPART D: OPERATIONS

## Section

1075.400 Capital Stock (Repealed)  
1075.410 Minimum Capital Requirement  
1075.415 Conflicting Federal Powers, Law and Regulations  
1075.420 Advertising  
1075.430 Maintenance of Records  
1075.440 Business Plan  
1075.450 Excess Insurance  
1075.455 Vacancies in the Board of Directors  
1075.460 Bond of Officers, Directors, Employees and Agents  
1075.465 Indemnification of Officers, Directors, Employees and Agents  
1075.470 Deceptively Similar Names  
1075.480 Manner of Display of Annual Meeting Notice  
1075.490 Procedures for Exercise of Dissenters Rights

## SUBPART E: INVESTMENTS

## Section

1075.500 Prudent Person Rule

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1075.505 Investment Underwriting Practice  
1075.510 Discrimination and Redlining  
1075.515 Loans Secured by Real Estate  
1075.520 Construction Loans  
1075.525 Mobile Home Financing (Repealed)  
1075.530 Overdraft Loans  
1075.535 Education Loans  
1075.540 Vehicle/Automobile Loans  
1075.545 Home Equity Loans  
1075.550 Letter of Credit  
1075.555 Other Investments  
1075.560 Commercial Paper  
1075.565 Financial Futures  
1075.570 Financial Options  
1075.575 Finance Leasing  
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1075.585 Asset Reserves

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## Section

1075.600 Requirements  
1075.610 Approval by the Commissioner  
1075.620 Investment Limitations  
1075.630 Investments by Service Corporations  
1075.640 Ownership of Capital Stock of Service Corporation  
1075.650 Prohibited Transactions  
1075.660 Disclosure to Service Corporation  
1075.670 Reporting Requirements  
1075.680 Audit Requirements

## SUBPART G: RELOCATIONS AND BRANCHING

## Section

1075.700 General  
1075.705 Application  
1075.710 Request for Preliminary Determination  
1075.715 Public Notice and Inspection  
1075.720 Protest  
1075.725 Oral Argument  
1075.730 Application for the Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger  
1075.735 Redesignation of Offices  
1075.740 Termination of Operation and/or Closing of a Branch Office  
1075.745 Agency Offices  
1075.750 Remote Drive-In and/or Remote Pedestrian Facilities

## SUBPART H: CAPITAL NOTES AND DEBENTURES

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## Section

1075.800 Approval  
1075.810 Conversion to Stock  
1075.820 Priority of Claim

## SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

## Section

1075.900 Applicability  
1075.905 Definitions  
1075.910 Early Neutral Evaluation  
1075.915 Conference Adjudicative Hearing  
1075.920 Filing  
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1075.930 Computation of Time  
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1075.960 Intervention  
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1075.980 Prehearing Conferences  
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1075.1045 Existing Statutory or Agency Procedures and Practices  
1075.1050 Costs of Hearing  
1075.1055 Emergency Adjudication

## SUBPART J: SAVINGS BANK HOLDING COMPANIES

## Section

1075.1100 Applicability  
1075.1105 Definitions  
1075.1110 Mutual Holding Company Reorganizations  
1075.1111 Subsidiary Holding Company

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## Section

1075.1115 Prohibition Against Approval of Certain Applications for Reorganization  
1075.1120 Contents of Reorganization Plans  
1075.1125 Capital Stock (Repealed)  
1075.1130 Charter (Repealed)  
1075.1135 Control (Repealed)  
1075.1140 Eligible Account Holder (Repealed)  
1075.1145 Eligibility Record Date (Repealed)  
1075.1150 Employee (Repealed)  
1075.1155 Equity Security (Repealed)  
1075.1160 Insured Institution (Repealed)  
1075.1165 Member (Repealed)  
1075.1170 Net Worth (Repealed)  
1075.1175 Officer (Repealed)  
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1075.1185 Qualifying Deposit (Repealed)  
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1075.1220 Directors of a Mutual Holding Company  
1075.1225 Stock Issuance Plan  
1075.1230 Stock of a Subsidiary of a Mutual Holding Company  
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1075.1240 Net Worth Maintenance Agreement (Repealed)  
1075.1245 Members' Rights  
1075.1250 Investment  
1075.1255 Notice Requirement/Corrective Action  
1075.1260 Insider Abuses  
1075.1265 Determination of the Qualification and Condition of an Out-of-State Acquisition  
1075.1270 Acquisition and Disposal of Subsidiaries  
1075.1275 Dividend Limitations and Waivers  
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1075.1285 Access to Books and Records  
1075.1290 Annual Audit Requirements  
1075.1295 Maintenance of Records  
1075.1300 Notice of Appointment of Independent Accountants  
1075.1305 Holding Company Filing Fees (Repealed)  
1075.1310 Holding Company Supervisory Fees  
1075.1315 Examination Fees  
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SUBPART K: CONVERSION OF AN EXISTING DEPOSITORY INSTITUTION INTO AN

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## ILLINOIS SAVINGS BANK

Section	Scope of Rules
1075.1400	Definitions
1075.1405	General Rules for Conversion Plan
1075.1410	Adopting and Filing of a Conversion Plan (Repealed)
1075.1415	Conversion Plan Requirements (Repealed)
1075.1420	Vote by Shareholders and Members (Repealed)
1075.1425	Issuance of Certificate of Approval
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Section	Sale of Offices, Facilities and Equipment
1075.1500	Purchase of Offices (Repealed)
1075.1510	Bridge Charters
1075.1520	Unsafe and Unsound Practices
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## SUBPART M: REMOVALS, SUSPENSIONS AND INDUSTRYWIDE PROHIBITION

Section	Scope
1075.1600	Notice of Intention and Answer
1075.1610	Removal and Prohibition by Order
1075.1620	Suspension by Notice
1075.1630	Industry wide Prohibition
1075.1640	Unauthorized Participation of Convicted Individual
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## SUBPART N: ACQUISITION OF CONTROL OF A SAVINGS BANK

Section	Acquisition of Control of a Savings Bank
1075.1700	Anti-Takeover Provisions
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## SUBPART O: CONVERSION OF MUTUAL SAVINGS BANK TO CAPITAL STOCK SAVINGS BANK

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1075.1800	Approval -- Waiver of Requirements				
1075.1805	Forms				
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1075.1820	Prohibition on Approval of Certain Applications for Conversion
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1075.1870	Savings Account Holder to Receive Withdrawable Savings Account(s) -- Amount
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1075.1910	Reasonable Expenses Required
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 Offers and Sales of Securities -- Prohibitions  
 Distribution of Offering Circulars Authorized  
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 Additional Filing Requirements  
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 Proxy Statement -- Consents of Experts and Reports  
 1075.2430 Proxy Statement -- Attachments  
 Offering Circular  
 1075.2440 Offering Circular -- Certain Manner of Presentation of Required  
 Information Prohibited  
 1075.2450 Offering Circular -- Certain Named Persons -- Filing of Written  
 Consent Required  
 1075.2520 Offering Circular -- Information Required  
 Offering Circular -- Additional Current Information Required  
 1075.2530 Offering Circular -- Statement Required in Offering Circulars  
 Offering Circular -- Preliminary Offering Circular  
 1075.2540 Offering Circular -- Information with Respect to Exercise of  
 Subscription Rights  
 1075.2550 Offering Circular -- Information with Respect to Public Offering or  
 Direct Community Offering

## SUBPART P: HIGH RISK HOME LOANS

Report of Default and Foreclosure Rates on Conventional Loans  
 Commissioner's Authority - Unusually High Rate on Conventional

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF EMERGENCY AMENDMENT

EMERGENCYLoansCommissioner's Action - Unusually High Rate on ConventionalEMERGENCY

AUTHORITY: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days.

## SUBPART P: HIGH RISK HOME LOANS

Section 1075.3650 Report of Default and Foreclosure Rates on ConventionalLoansEMERGENCY

- a) On or before August 1 and February 1 of each year, each charter who is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six month periods ending June 30 and December 31, respectively.

- b) Each charter shall report for each loan in default or foreclosure:

- 1) name of borrowers;
- 2) address of the property mortgaged;
- 3) census tract of the property mortgaged;
- 4) status of the loan (default or foreclosure);
- 5) date the loan was consummated;
- 6) name and license number of any licensee under the Residential Mortgage Licensing Act who originated the loan;
- 7) name and address of any non-licensed or exempt entity that originated the loan.

(Source: Added by emergency rulemaking at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

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EMERGENCYLoansCommissioner's Authority - Unusually High Rate on ConventionalEMERGENCY

The Commissioner may take any action permitted under the Act whenever the Commissioner determines, based on a charter's report under Section 1075.3650, that the foreclosure rate on conventional mortgage loans in a particular area, as deemed by the Commissioner on a case-by-case basis, is higher than a rate deemed appropriate by the Commissioner in that particular area. The Commissioner shall determine the appropriate rate for a particular area by calculating the average of the default and foreclosure rates on conventional mortgage loans in the same area for the same period of time based on information filed with the Commissioner pursuant to the Act. A charter's rate that exceeds the average shall be considered unusually high.

(Source: Added by emergency rulemaking at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days)

Section 1075.3750 Commissioner's Action - Unusually High Rate on ConventionalLoansEMERGENCY

- a) Whenever a charter's conventional loan default and foreclosure rate for a particular six month period exceeds the average calculated in Section 1075.3700, the Commissioner shall:

- 1) conduct an examination of the charter;
- 2) enter into a supervisory agreement with the charter to lower its default and foreclosure rate on conventional loans based on an analysis of its rate and the results of the examination. The supervisory agreement will include a timetable for achieving results;

- 3) use a variety of remedies in a supervisory agreement based on the case-by-case basis to effect a lowering of a default and foreclosure rate on conventional loans, such as:

- A) required use of borrower balance sheet, cash flow statement, and income and expense forms on future loans
- B) providing of a counseling video to borrower's of future loans;
- C) mandating that all prospective borrowers bring their loan applications to the Commissioner for a Third Party Review, as described in Section 1075.3800 of this Subpart;
- D) levying fines;
- E) using other regulatory means up to and including issuance of a Cease and Desist Order.

- b) When the loan analysis described in Sections 1075.3650(a) and 1075.3700 shows that a licensee under the Residential Mortgage Licensing Act acting as broker or originator is contributing to the high default and foreclosure rate of the reporting charter, that

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broker or originator shall also be subject to examination and supervisory agreement as defined in subsection (a).

(Source: Added by emergency rulemaking at 24 Ill. Reg. [ ] effective [ ], for a maximum of 150 days)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:  
140.445 Emergency Action:  
140.446 Amendment  
140.447 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 91-0712.
- 5) Effective Date: December 15, 2000
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: December 14, 2000
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed to implement certain budgetary constraints regarding pharmacy services under the Department's Medical Assistance Program. These changes are necessary because of recent unanticipated growth in the Department's drug costs for Illinois' medical assistance clients. The emergency amendments will insure adequate coverage for essential services while keeping expenditures within appropriation limitations. Since these cost containment measures are a necessary component of the State's fiscal year 2001 budget implementation plan, these emergency amendments are being filed pursuant to Section 5-45 of Public Act 91-0712.

- 10) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's rules concerning pharmacy services are intended to implement certain budgetary constraints in response to a recent unanticipated increase in drug costs. These cost containment measures are intended to allow the maintenance of essential pharmacy services while controlling costs and respecting appropriation limitations.

The Department's plan for controlling drug expenditures includes several changes in the current reimbursement methodology. In Section 140.445, the Department is adding an additional method for determining the maximum price paid for prescription drugs. Under the new reimbursement plan, calculations will be based on the wholesale acquisition cost plus a



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## NOTICE OF EMERGENCY AMENDMENTS

percentage for brand name and generic drugs. Reimbursement changes in Section 140.447 coincide with these changes. In Section 140.446, changes are being made to reduce costs associated with over-the-counter items by utilization of the average wholesale price plus a percentage.

As a result of these changes concerning drug reimbursement, the Department anticipates that annual expenditures will decrease by approximately \$35 million.

- 11) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.21	Amendment	24 Ill. Reg. 14593, 10/6/00
140.22	Amendment	24 Ill. Reg. 14593, 10/6/00
140.416	Amendment	24 Ill. Reg. 18486, 12/22/00
140.417	Amendment	24 Ill. Reg. 18486, 12/22/00
140.418	Amendment	24 Ill. Reg. 18486, 12/22/00
140.494	Amendment	24 Ill. Reg. 11539, 8/4/00

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any state mandates affecting units of local government.

- 13) Information and questions regarding this amendment shall be directed to:

Joanne Jones  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217) 524-0081

The full text of the Emergency Amendments begins on the next page:

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## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

Section	Incorporation By Reference
140.1	Medical Assistance Programs
140.2	Covered Services Under Medical Assistance Programs
140.3	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.4	Covered Medical Services Under General Assistance
140.5	Medical Services Not Covered
140.6	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.7	Medical Assistance For Qualified Severely Impaired Individuals
140.8	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.9	Medical Assistance Provided to Incarcerated Persons
140.10	

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section	Enrollment Conditions for Medical Providers
140.11	Participation Requirements for Medical Providers
140.12	Definitions
140.13	Denial of Application to Participate in the Medical Assistance Program
140.14	Recovery of Money
140.15	Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.16	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Effect of Termination on Individuals Associated with Vendor
140.18	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.19	Submission of Claims
140.20	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited

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140.27 Assignment of Vendor Payments  
140.28 Record Requirements for Medical Providers  
140.30 Audits  
140.31 Emergency Services Audits  
140.32 Prohibition on Participation, and Special Permission for Participation  
140.33 Publication of List of Terminated, Suspended or Barred Entities  
140.35 False Reporting and Other Fraudulent Activities  
140.40 Prior Approval for Medical Services or Items  
140.41 Prior Approval in Cases of Emergency  
140.42 Limitation on Prior Approval  
140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained  
140.55 Recipient Eligibility Verification (REV) System  
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
140.72 Voucher Advance Payment and Expedited Payments  
140.72 Drug Manual (Recodified)  
140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
140.80 Hospital Provider Fund  
140.82 Developmentally Disabled Care Provider Fund  
140.84 Long Term Care Provider Fund  
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
140.95 Hospital Services Trust Fund  
140.96 General Requirements (Recodified)  
140.97 Special Requirements (Recodified)  
140.98 Covered Hospital Services (Recodified)  
140.99 Hospital Services Not Covered (Recodified)  
140.100 Limitation On Hospital Services (Recodified)  
140.101 Transplants (Recodified)  
140.102 Heart Transplants (Recodified)  
140.103 Liver Transplants (Recodified)  
140.104 Bone Marrow Transplants (Recodified)  
140.110 Disproportionate Share Hospital Adjustments (Recodified)  
140.116 Payment for Inpatient Services for GA (Recodified)  
140.117 Hospital Outpatient and Clinic Services (Recodified)  
140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)  
140.201 Payment for Hospital Services After June 30, 1982 (Repealed)  
140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
140.203 Limits on Length of Stay by Diagnosis (Recodified)  
140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
140.350 Copayments (Recodified)  
140.360 Payment Methodology (Recodified)

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140.361 Non-Participating Hospitals (Recodified)  
140.362 Pre July 1, 1989 Services (Recodified)  
140.363 Post June 30, 1989 Services (Recodified)  
140.364 Prepayment Review (Recodified)  
140.365 Base Year Costs (Recodified)  
140.366 Restructuring Adjustment (Recodified)  
140.367 Inflation Adjustment (Recodified)  
140.368 Volume Adjustment (Repealed)  
140.369 Groupings (Recodified)  
140.370 Rate Calculation (Recodified)  
140.371 Payment (Recodified)  
140.372 Review Procedure (Recodified)  
140.373 Utilization (Repealed)  
140.374 Alternatives (Recodified)  
140.375 Exemptions (Recodified)  
140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)  
140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)  
140.391 Definitions (Recodified)  
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)  
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)  
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)  
140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section  
140.400 Payment to Practitioners, Nurses and Laboratories  
140.410 Physicians' Services  
140.411 Covered Services By Physicians  
140.412 Services Not Covered By Physicians  
140.413 Limitation on Physician Services  
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians  
140.416 Optometric Services and Materials  
140.417 Limitations on Optometric Services  
140.418 Department of Corrections Laboratory  
140.420 Dental Services  
140.421 Limitations on Dental Services  
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists  
140.425 Podiatry Services  
140.426 Limitations on Podiatry Services  
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry  
140.428 Chiropractic Services

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140.429 Limitations on Chiropractic Services (Repealed)  
 140.430 Independent Clinical Laboratory Services  
 140.431 Services Not Covered by Independent Clinical Laboratories  
 140.432 Limitations on Independent Clinical Laboratory Services  
 140.433 Payment for Clinical Laboratory Services  
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 140.435 Nurse Services  
 140.436 Limitations on Nurse Services  
 140.438 Imaging Centers  
 140.440 Pharmacy Services  
 140.441 Pharmacy Services Not Covered  
 140.442 Prior Approval of Prescriptions  
 140.443 Filling of Prescriptions  
 140.444 Compounded Prescriptions  
 140.445 Legend Prescription Items (Not Compounded)

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140.446 Over-the-Counter Items

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140.447 Reimbursement

## EMERGENCY

140.448 Returned Pharmacy Items  
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 140.450 Record Requirements for Pharmacies  
 140.451 Prospective Drug Review and Patient Counseling  
 140.452 Mental Health Clinic Services  
 140.453 Definitions  
 140.454 Types of Mental Health Clinic Services  
 140.455 Payment for Mental Health Clinic Services  
 140.456 Hearings  
 140.457 Therapy Services  
 140.458 Prior Approval for Therapy Services  
 140.459 Payment for Therapy Services  
 140.460 Clinic Services  
 140.461 Clinic Participation, Data and Certification Requirements  
 140.462 Covered Services in Clinics  
 140.463 Clinic Service Payment  
 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)  
 140.465 Speech and Hearing Clinics (Repealed)  
 140.466 Rural Health Clinics  
 140.467 Independent Clinics  
 140.469 Hospice  
 140.470 Home Health Services  
 140.471 Home Health Covered Services  
 140.472 Types of Home Health Services  
 140.473 Prior Approval for Home Health Services  
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 140.475 Medical Equipment, Supplies and Prosthetic Devices  
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 140.478 Limitations on Equipment, Supplies and Prosthetic Devices  
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 140.480 Limitations, Medical Supplies  
 140.481 Equipment Rental Limitations  
 140.482 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids  
 140.483 Family Planning Services  
 140.484 Limitations on Family Planning Services  
 140.485 Payment for Family Planning Services  
 140.486 Healthy Kids Program  
 140.487 Limitations on Medichuk Services (Repealed)  
 140.488 Healthy Kids Program Timeliness Standards  
 140.489 Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures  
 140.490 Medical Transportation  
 140.491 Limitations on Medical Transportation  
 140.492 Payment for Medical Transportation  
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 140.495 Psychological Services  
 140.496 Payment for Psychological Services  
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## SUBPART E: GROUP CARE

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 140.500 Long Term Care Services  
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 140.503 Cessation of Payment for Improper Level of Care  
 140.504 Cessation of Payment Because of Termination of Facility  
 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR Admissions  
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 140.511 Long Term Care Services Covered by Department Payment  
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 140.514 Certifications and Recertifications of Care  
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140.524 Cessation of Payment Due to Loss of License  
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 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)  
 140.527 Quality Incentive Survey (Repealed)  
 140.528 Payment of Quality Incentive (Repealed)  
 140.529 Reviews (Repealed)  
 140.530 Basis of Payment for Long Term Care Services  
 140.531 General Service Costs  
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 140.533 General Administration Costs  
 140.534 Ownership Costs  
 140.535 Costs for Interest, Taxes and Rent  
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 140.539 Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation  
 140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations  
 140.541 Salaries Paid to Owners or Related Parties  
 140.542 Cost Reports-Filing Requirements  
 140.543 Time Standards for Filing Cost Reports  
 140.544 Access to Cost Reports (Repealed)  
 140.545 Penalty for Failure to File Cost Reports  
 140.550 Update of Operating Costs  
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 140.552 Nursing and Program Costs  
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 140.554 Component Inflation Index  
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 140.560 Components of the Base Rate Determination  
 140.561 Support Costs Components  
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 140.566 Out-of-State Placement  
 140.567 Level II Incentive Payments (Repealed)  
 140.568 Duration of Incentive Payments (Repealed)  
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 140.570 Capital Rate Component Determination  
 140.571 Capital Rate Calculation  
 140.572 Total Capital Rate  
 140.573 Other Capital Provisions  
 140.574 Capital Rates for Rented Facilities  
 140.575 Newly Constructed Facilities (Repealed)  
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140.577 Capital Costs for Rented Facilities (Renumbered)  
 140.578 Property Taxes  
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 140.580 Mandated Capital Improvements (Repealed)  
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 140.590 Audit and Record Requirements  
 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services  
 140.643 In-Home Care Program  
 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21  
 140.646 Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities  
 140.647 Description of Developmental Training (DT) Services  
 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs  
 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs  
 140.650 Certification of Developmental Training (DT) Programs  
 140.651 Decertification of Day Programs  
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 140.680 Effective Date Of Payment Rate  
 140.700 Discharge of Long Term Care Residents  
 140.830 Appeals of Rate Determinations  
 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section  
 140.850 General Description (Repealed)  
 140.855 Definition of Terms (Repealed)  
 140.860 Covered Services (Repealed)  
 140.865 Sponsor Qualifications (Repealed)  
 140.870 Sponsor Responsibilities (Repealed)  
 140.875 Department Responsibilities (Repealed)  
 140.880 Provider Qualifications (Repealed)  
 140.885 Provider Responsibilities (Repealed)  
 140.890 Payment Methodology (Repealed)  
 140.895 Contract Monitoring (Repealed)  
 140.896 Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)  
 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)

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140.901 Functional Areas of Needs (Recodified)  
 140.902 Service Needs (Recodified)  
 140.903 Definitions (Recodified)  
 140.904 Times and Staff Levels (Repealed)  
 140.905 Statewide Rates (Repealed)  
 140.906 Reconsiderations (Recodified)  
 140.907 Midnight Census Report (Recodified)  
 140.908 Times and Staff Levels (Recodified)  
 140.909 Statewide Rates (Recodified)  
 140.910 Referrals (Recodified)  
 140.911 Basic Rehabilitation Aide Training Program (Recodified)  
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## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section  
 140.920 General Description  
 140.922 Covered Services  
 140.924 Maternal and Child Health Provider Participation Requirements  
 140.926 Client Eligibility (Repealed)  
 140.928 Client Enrollment and Program Components (Repealed)  
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 140.932 Payment Authorization for Referrals (Repealed)

## SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section  
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)  
 140.942 Definition of Terms (Recodified)  
 140.944 Notification of Negotiations (Recodified)  
 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)  
 140.948 Negotiation Procedures (Recodified)  
 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)  
 140.952 Closing an ICARE Area (Recodified)  
 140.954 Administrative Review (Recodified)  
 140.956 Payments to Contracting Hospitals (Recodified)  
 140.958 Admitting and Clinical Privileges (Recodified)  
 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)  
 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)  
 140.964 Contract Monitoring (Recodified)  
 140.966 Transfer of Recipients (Recodified)  
 140.968 Validity of Contracts (Recodified)  
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 140.972 Hospital Services Procurement Advisory Board (Recodified)

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TABLE A Medichuk Recommended Screening Procedures (Repealed)  
 TABLE B Geographic Areas  
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 TABLE D Schedule of Dental Procedures  
 TABLE E Time Limits for Processing of Prior Approval Requests  
 TABLE F Podiatry Service Schedule  
 TABLE G Travel Distance Standards  
 TABLE H Areas of Major Life Activity  
 TABLE I Staff Time and Allocation for Training Programs (Recodified)  
 TABLE J HSA Grouping (Repealed)  
 TABLE K Services Qualifying for 10% Add-On (Repealed)  
 TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)  
 TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984;



amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22,

1988; Sections 140.900 thru 140.912 and 140.913, effective March 22, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Reg. 14391, effective August 31, 1989; amended at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.938 recodified to 89 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 4543, effective March 6, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826,



## DEPARTMENT OF PUBLIC AID

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effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days;

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emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6299, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired

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April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19224, effective December 15, 2000, for a maximum of 150 days.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.445 Legend Prescription Items (Not Compounded)

EMERGENCY

For legend (prescription) drugs, the Department shall pay the lower of:

- a) the pharmacy's prevailing charge to the general public; or
- b) the Department's maximum price plus the established dispensing fee.
  - 1) For generic drugs, the Department's maximum price is calculated as the lowest of:
    - A) the pharmacy's prevailing charge to the general public; or
    - B) the average wholesale price minus 12 percent plus the established dispensing fee; or
    - C) the Federal Upper Limit for drugs that have been evaluated as therapeutically equivalent in the Food and Drug Administration's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations, plus the established dispensing fee; or
    - D) the State Upper Limit for drugs listed in the Illinois Formulary for the Drug Product Selection program and not having an established Federal Upper Limit at the time of listing plus the established dispensing fee; or
    - E) the average wholesale price for drugs where that price is based upon the actual market wholesale price plus the established dispensing fee; or
    - F) the wholesale acquisition cost plus 12 percent.
  - 2) For brand name drugs, the Department's maximum price is calculated as the lowest lower of:
    - A) the average wholesale price minus ten percent plus the established dispensing fee; or
    - B) the average wholesale price for drugs where that price is based upon the actual market wholesale price plus the established dispensing fee; or
    - C) the wholesale acquisition cost plus 8 percent.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 19224, effective December 15, 2000, for a maximum of 150 days)

Section 140.446 Over-the-Counter Items  
EMERGENCY

For those over-the-counter items which are covered, the Department shall pay the lower of:

- 1) the prevailing charge to the general public; or
- 2) the average wholesale price acquisition-cost, plus 25 percent the percentage-established-by-the-Department-for-over-the-counter items.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 19224, effective December 15, 2000, for a maximum of 150 days)

Section 140.447 Reimbursement

EMERGENCY

- a) The calculation of average wholesale price and wholesale acquisition cost in the determination of the Department's maximum price (Section 140.445(b)(2)) is made using the standard package size.
- b) If a pharmacy gives discounts to the general public, it must provide the same to Public Aid recipients. If discounts are allowed only to a specific group of people, they shall be extended to a recipient if he or she is a member of the special discount group. Public Aid recipients can constitute a special group and receive a discount, but they cannot be excluded from a discount group just because they are recipients.
- c) The Department will require pharmacies to complete hard copy (paper) claim forms for pharmacy services and attach a prescribing Practitioner Name Identification Form. A separate hard copy (paper) claim form and Practitioner Name Identification Form is to be required for each recipient and prescribing practitioner.
- d) The Department will authorize an exception for pharmacies, to the requirements of subsection (c) of this Section 140-447(e), by allowing pharmacy claims to be submitted with the prescribing practitioner's DEA number, Department Medical Assistance program participating provider identification number or Social Security Number.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 19224, effective December 15, 2000, for a maximum of 150 days)



## POLLUTION CONTROL BOARD

## NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Tiered Approach to Corrective Action Objectives
- 2) Code Citation: 35 Ill. Adm. Code 742
- 3) Section Numbers                      Proposed Action:  
Appendix A, Table G                      Amend
- 4) Notice of proposal published in the Illinois Register: August 18, 2000, 24 Ill Reg. 12225
- 5) JCAR Statement of Objection Published in the Register: December 29, 2000
- 6) Summary of Action Taken by the Agency

The Board acknowledges JCAR's "procedural" objection to this rulemaking. However, the Board has determined that it is neither appropriate nor necessary to take any action based on the "procedural" objection, which was approved by the Joint Committee by a vote of 5-0 of the 12 members appointed to the Committee.

The basis for JCAR's "procedural" objection appears to be that the proposed changes to Appendix A, Table G were not included in the first notice proposal of this rulemaking, which is Board docket R00-19(A). The Board currently has two subdockets open in the TACO rulemaking: R00-19(A) and R00-19(B). Both subdockets were adopted for first notice at the Board's July 27, 2000 Board Meeting. Both were published in the Illinois Register. Both proceeded to hearing simultaneously on August 25, September 11, and September 21, 2000. Public comments were received in both subdockets through October 23, 2000. The proposed changes to Appendix A, Table G were originally contained in Subdocket B of this rulemaking (R00-19(B)).

Because the proposed amendments contained in Subdocket A(R00-19(A)) contained a statutory adoption deadline, the Board planned to proceed to second notice and adoption of those amendments prior to proceeding with Subdocket B. Significant public comments urging that the Board expedite adoption of the arsenic background levels contained in Appendix A, Table G, were received by the Board. The commentators included: The Village of Palatine; Mitruff Companies; Home Builders Association of Illinois; The Green Environmental Group, Ltd.; and Home Builders Association of Greater Chicago.

Since the proposed changes to Appendix A, Table G had already been published for first notice, had been subject to three days of hearing, and had been the subject of public comments, the Board determined that the most expeditious and effective course was to include Appendix A, Table G in Subdocket A and proceed to second notice. Prior to doing so, the Board confirmed that there were no rules, either published by JCAR, in the

## POLLUTION CONTROL BOARD

## NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

Administrative Procedures Act, or by the Secretary of State Index Department, that would preclude the Board from making this type of change at second notice. Accordingly, while the Board acknowledges JCAR's procedural objection, we decline to make any change to the rule in response. The Board shall, of course, continue to make every effort in the future to assure that its rulemakings conform to all rulemaking policies and procedures established by statute and/or JCAR.



## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Structural Pest Control Code
- 2) Administrative Code Citation: 77 Ill. Adm. Code 830
- 3) Register Citation to Notice of Proposed Rules: 24 Ill. Reg. \_\_\_\_\_;  
December 29, 2000
- 4) Dates, Times and Locations of Public Hearing:  

January 4, 2001  
11:00 a.m.  
Illinois Department of Public Health  
4th Floor Conference Room  
525 West Jefferson Street  
Springfield, Illinois 62761

5) Other Pertinent Information:

These hearings are being held for the purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at these hearings are advised that the Department will adhere to the following procedures in the conduct of the hearings:

- A. All persons wishing to testify should register at the beginning of the hearing. The hearing officer will determine the time allotted for each individual based on the number of persons registered at the beginning of the hearing.
- B. Persons testifying are asked to limit their testimony to the time specified by the hearing officer. Persons who exceed this time limit will be advised to conclude their testimony. The Department wants to ensure that each person who wishes to speak has time to do so.
- C. Organizations are asked to select one spokesperson to present their views.
- D. No person will be recognized to speak for a second time until all registered persons have testified.
- E. To provide a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer shall impose other rules of procedure, including the order of the call of persons to provide testimony, as he/she deems necessary.
- F. Each person presenting oral testimony shall provide to the hearing officer a written copy of such testimony at the time the oral testimony is presented.

## ILLINOIS DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- G. All persons who wish to testify must complete a witness slip.
- 6) Name and Address of Agency Contact Person: Questions regarding the public hearing shall be directed to  

Paul Thompson,  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043  
(e-mail:rules@idph.state.il.us)

## ILLINOIS GAMING BOARD

## NOTICE OF PUBLIC INFORMATION

The following dates have been chosen for calendar year 2001. All meetings are scheduled to be held at the State of Illinois Building, 160 N. LaSalle Street, Room C500, Chicago, Illinois.

January 30, 2001  
February 27, 2001  
March 20, 2001  
April 17, 2001  
May 15, 2001  
June 19, 2001  
July 17, 2001  
September 18, 2001  
October 16, 2001  
December 4, 2001

## ILLINOIS GAMING BOARD

## JANUARY 2000 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Riverboat Gambling, 86 Ill. Adm. Code 3000

## 1) Rulemaking:

A) Description: Rulemaking is being considered to address problem/ compulsive gambling issues, including establishing a Voluntary Self- Exclusion List. In addition, the Board is undertaking a long-term review of all of its rules to assess their current applicability and compliance with the Riverboat Gambling Act and other applicable state and federal laws. Amendments to the Adopted Rules as well as the adoption of rules in the new subject areas may be proposed throughout the year.

B) Statutory Authority: Riverboat Gambling Act, 230 ILCS 10

C) Scheduled meeting/hearing dates: The schedule of Illinois Gaming Board meeting dates have been adopted for 2001, although no specific schedule for Board review of proposed rulemakings has been established at this time. Prior to Board consideration and action at a public meeting, changes to the rules will be discussed with owner licensees and their representatives. Also, all proposed rulemaking is identified in the Agenda for each meeting. Agendas are available to the public as required under the Open Meetings Act and are also posted on the Board's website at [www.igb.state.il.us](http://www.igb.state.il.us).

The Board identifies its Rules in three categories: (1) Draft Rules (under consideration by staff); (2) Proposed Rules (approved by the Board for First Notice filing); and (3) Adopted Rules (approved by the Board for filing the Secretary of State after submitting the Second Notice to the Joint Committee on Administrative Rules). Rules in all three categories are available for public inspection and are posted on the Board's website at [www.igb.state.il.us](http://www.igb.state.il.us).

D) Date agency anticipates First Notice: Proposed rules will be presented to the Board and filed with the Secretary of State and submitted to the Joint Committee on Administrative Rules throughout calendar year 2001. The staff proposal on adopting a Voluntary Self-Exclusion Rule is in draft form and is being circulated for public comment. The Proposed Rule may be presented to the Board for First Notice filing at its January 30, 2001 meeting.

E) Affect on small businesses, small municipalities, or not for

ILLINOIS GAMING BOARD

JANUARY 2000 REGULATORY AGENDA

profit corporations: None expected.

F) Agency contact person for information:

Name: Jeannette P. Tamayo  
Address: Deputy Chief Counsel  
Illinois Gaming Board  
160 North LaSalle Street, Suite 300S  
Chicago, Illinois 60601  
Telephone: 312.814.4700; FAX 312.814.4602

G) Related rulemakings and other pertinent information: None at this time.

DEPARTMENT OF THE LOTTERY

JULY 1999 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Lottery (General), 11 Ill. Adm. Code 1770

1) Rulemaking:

A) Description: Section 1770.180(b) presently provides that numbers shall be drawn at random to select winners of special promotions. This language does not address the various other methods of randomly selecting winners, such as a drawing from entry tickets or forms. The Lottery anticipates amending Section 1770.180(b) to remedy this shortcoming. The language of Section 1770.200(a) is incomplete as to officers or employees of certain contractors which may be prohibited from Lottery play. The Lottery anticipates amending Section 1770.200(a) to clarify the prohibition.

B) Statutory Authority: Section 7.1 of the Illinois Lottery Law.

C) Scheduled meeting/hearing date: No meetings or hearings are scheduled.

D) Date agency anticipates First Notice: May 2001.

E) Affect on small business, small municipalities or not for profit corporations: The contemplated amendments will have no impact on small businesses, small municipalities and not for profit corporations holding or applying for Lottery licenses. It may impact small businesses under contract to the Lottery, if the services provided necessitate that the firm's officers and/or employees be prohibited from Lottery play.

F) Agency contact person for information:

Name: Lisa A. Crites  
Address: Illinois Lottery  
201 E. Madison  
Springfield, IL 62702  
Telephone: 217/524-5253  
Fax: 217/524-5235

G) Related rulemakings and other pertinent information: There are no related rulemakings.



## PROPERTY TAX APPEAL BOARD

## JANUARY 2001 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Practice and Procedure for Hearings Before the Property Tax Appeal Board, 86 Ill. Adm. Code 1910.

1) Rulemaking:

- A) Description: There are no proposed rules anticipated by the Property Tax Appeal Board.
- B) Statutory Authority: 35 ILCS 200/Art.7 and 35 ILCS 200/16-160 through 16-195.
- C) Scheduled meeting/hearing date: No hearings scheduled or anticipated.

- D) Date agency anticipates First Notice: None

- E) Effect on small businesses, small municipalities or not for profit corporations: None

- F) Agency contact person for information:

Name: James W. Chipman  
Executive Director  
Property Tax Appeal Board  
Address: Rm. 402, Stratton Office Bldg.  
401 S. Spring St.  
Springfield, IL 62706  
Telephone: (217) 782-6076

- G) Related rulemaking and other pertinent information: None

## DEPARTMENT OF STATE POLICE

## JANUARY 2001 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Firearm Owner's Identification Card Act; 20 Ill. Adm. Code 1230

1) Rulemaking:

- A) Description: The rule will be amended to revise and update procedures associated with granting, denying and revoking the Firearm Owner's Identification Card and related activities. In addition, the definition of antique firearms will be clarified.

- B) Statutory Authority: 20 ILCS 2605/55a and 430 ILCS 65/11

- C) Schedule of meeting/hearing date: No schedule has been established at this time.

- D) Date agency anticipates First Notice: No date has been determined at this time.

- E) Effect on small businesses, small municipalities or not for profit corporations: The amendment will have no effect on small businesses, small municipalities or not for profit corporations.

- F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

- G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citation): Firearm Transfer Inquiry Program; 20 Ill. Adm. Code 1235

1) Rulemaking:

- A) Description: The rule will be amended to revise and update procedures associated with the Firearm Transfer Inquiry Program and related activities.

- B) Statutory Authority: 20 ILCS 2605/55a and 430 ILCS 65/3.1

- C) Schedule of meeting/hearing date: No schedule has been established at this time.

DEPARTMENT OF STATE POLICE  
JANUARY 2001 REGULATORY AGENDA

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: The amendment will have no effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Sex Offender Registration Act; 20 Ill. Adm. Code 1280

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures and policies relating to the implementation of the Sex Offender Registration Act.

B) Statutory Authority: 20 ILCS 2605/55a and 730 ILCS 150/4

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small business, small municipalities or not for profit corporations: The amendment or rule will have no effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461

DEPARTMENT OF STATE POLICE  
JANUARY 2001 REGULATORY AGENDA

Springfield, Illinois 62794-9461  
217/782-7658

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Sex Offender and Child Murderer Community Notification Law; 20 Ill. Adm. Code 1282

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures and policies relating to implementation of the Child Sex Offender and Murderer Community Notification Law.

B) Statutory Authority: 20 ILCS 2605/55a and 730 ILCS 152

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: The amendment will have no effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Sample Collection for Genetic Marker Indexing; 20 Ill. Adm. Code 1285

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures and policies relating to Sample Collection for Genetic Marker Indexing.

## DEPARTMENT OF STATE POLICE

## JANUARY 2001 REGULATORY AGENDA

- B) Statutory Authority: 20 ILCS 2605/55a and 730 ILCS 5/5-4-3
- C) Schedule of meeting/hearing date: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendment will have no effect on small businesses, small municipalities or not for profit corporations.
- F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

- G) Related rulemakings and other pertinent information: None

- f) Part (Heading and Code Citation): Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds; 20 Ill. Adm. Code 1286

1) Rulemaking:

- A) Description: This rulemaking will replace and supercede the administrative rules previously under the authority of the Department of Public Health. This rulemaking is required by Public Act 91-0828.

- B) Statutory Authority: 20 ILCS 2605/2605-15

- C) Schedule of meeting/hearing date: No schedule has been established at this time.

- D) Date agency anticipates First Notice: First notice was published October 27, 2000, 24 Ill. Reg. 15916.

- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will have no effect on small businesses, small municipalities or not for profit corporations.

- F) Agency contact person for information:

## DEPARTMENT OF STATE POLICE

## JANUARY 2001 REGULATORY AGENDA

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

- G) Related rulemakings and other pertinent information: None

- g) Part (Heading and Code Citation): Missing Person Birth Records and School Registration; 20 Ill. Adm. Code 1290

1) Rulemaking:

- A) Description: The rule will be amended to revise and update the procedures for flagging certain birth records to assist in locating missing children and missing persons.

- B) Statutory Authority: 23 ILCS 2271, 23 ILCS 2281

- C) Schedule of meeting/hearing date: No schedule has been established at this time.

- D) Date agency anticipates First Notice: No date has been determined at this time.

- E) Effect on small businesses, small municipalities or not for profit corporations: The rules will have no effect on small businesses, small municipalities or not for profit corporations.

- F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

- G) Related rulemakings and other pertinent information: None

- h) Part (Heading and Code Citation): Emission Inspection Training and Certification; 20 Ill. Adm. Code 1293



DEPARTMENT OF STATE POLICE  
JANUARY 2001 REGULATORY AGENDA

1) Rulemaking:

A) Description: This rulemaking will be adopted to establish procedures for the training and certification of persons who conduct emission inspections.

B) Statutory Authority: 625 ILCS 5/13-102.1

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: The rules will have no effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Individual's Right to Access and Review Criminal History Record Information; 20 Ill. Adm. Code 1530

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures for accessing and reviewing criminal history record information maintained by the Illinois State Police.

B) Statutory Authority: 20 ILCS 2605/55a and 20 ILCS 2630/7

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

DEPARTMENT OF STATE POLICE  
JANUARY 2001 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: The amendment will have no effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Mr. James W. Redlich  
Chief Legal Counsel  
Illinois State Police  
124 East Adams Street, Room 102  
P.O. Box 19461  
Springfield, Illinois 62794-9461  
217/782-7658

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION  
TO EMERGENCY RULEMAKING

## OFFICE OF THE COMPTROLLER

Heading of the Part: Claim Eligible to be Offset

Code Citation: 74 Ill Adm Code 285

Section Numbers: 285.1104

Date Originally Published in the Illinois Register: 11/17/00  
24 Ill Reg 17371

At its meeting on December 12, 2000, the Joint Committee on Administrative Rules considered the above cited emergency rulemaking and recommends that the Comptroller's Office seek legislation to resolve possible conflict among the Comptroller's Act, Pension Code and Code of Civil Procedure as to the extent to which debt owed by an annuitant can be offset against State pension benefit payments to that annuitant.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING

## DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Crisis Assistance

Code Citation: 89 Ill Adm Code 116

Section Numbers: 116.500

Date Originally Published in the Illinois Register: 8/4/00  
24 Ill Reg 11460

At its meeting on December 12, 2000, the Joint Committee on Administrative Rules objected to the above cited rulemaking because DHS is limiting Crisis Assistance to TANF eligible clients only in contravention of Section 4-12 of the Public Aid Code. This statute requires DHS to determine eligibility for families already receiving TANF grants from the Department as well as to determine eligibility for all other families and to afford such assistance for families found eligible within such time limits as the Department shall by rule provide.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Tiered Approach to Corrective Action Objectives

Code Citation: 35 Ill Adm Code 742

Section Numbers: 742.Appendix A, Table G

Date Originally Published in the Illinois Register: 8/11/00  
24 Ill Reg 11761

At its meeting on December 12, 2000, the Joint Committee on Administrative Rules objected to the Pollution Control Board adding to this rulemaking during the First Notice Period amendments to Appendix A, Table G that introduced an issue that was not part of this rulemaking at the time it was filed for First Notice. This is a procedural Objection. The Committee is not objecting to the substance of the change that is being proposed, but rather to the addition of an issue not directly related to a rulemaking in process. Other statutorily authorized rulemaking procedures were available and should have been utilized.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF FAILURE TO REMEDY  
DEPARTMENT OF REVENUE

1) Heading of Part: Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act

2) Code Citation: 86 Ill Adm Code 530

3) Section Numbers:  
530.155 Action.  
530.160 Objection  
530.165 Objection

4) Notice of Proposal published in Illinois Register: 8/11/00  
24 Ill. Reg. 11792

5) Date JCAR issued Statement of Objection: 10/17/00

6) Summary of Action taken by the Agency: DOR proposed a rulemaking expanding the covered drugs to encompass those prescribed to treat cancer, Alzheimer's disease, Parkinson's disease, glaucoma and lung disease and smoking related illnesses.

7) JCAR Action: The above cited rulemaking was considered by the Joint Committee at its October 17, 2000 meeting. At that time, the Committee voted to issue an Objection because the rulemaking limited drug coverage more severely than intended by the legislation. In response to the Objection, the Department responded that it was going to proceed with adoption of the rulemaking. At its meeting on December 12, 2000, the Committee voted to issue a Notice of Failure to Remedy as nothing in the agency's response changed the Committee's view that the rulemaking adds limitations to the program not intended by the General Assembly when it enacted the underlying statute.



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 12, 2000 through December 18, 2000 and have been scheduled for review by the Committee at its January 9, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/25/01	Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill Adm Code 693)	4/14/00 24 Ill Reg 6343	1/9/01
1/26/01	Department of Human Rights, Housing Discrimination (71 Ill Adm Code 2300)	10/13/00 24 Ill Reg 14942	1/9/01
1/26/01	Guardianship and Advocacy Commission, Human Rights Authority (59 Ill Adm Code 310)	10/20/00 24 Ill Reg 15345	1/9/01
1/31/01	Department of Human Services, Food Stamps (89 Ill Adm Code 121)	10/20/00 24 Ill Reg 15405	1/9/01
1/31/01	Department of State Police, Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds (20 Ill Adm Code 1286)	10/27/00 24 Ill Reg 15916	1/9/01
1/31/01	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)	10/27/00 24 Ill Reg 15914	1/9/01

## PROCLAMATIONS

2000-612

## CAROL BEESE DAY

WHEREAS, Carol Beese announced her retirement as President of the Barrington Area Chamber of Commerce, bringing to a close a 32-year career as one of the pioneering women in the chamber field in Illinois and the national level; and

WHEREAS, Carol was the first woman to serve as President of IACCE, serving in 1984, and was honored in 1995 with the association's highest award, the Lester W. Brann, Jr. Distinguished Illinois Chamber of Commerce Executive Award; and

WHEREAS, as the chief executive of the Barrington Area Chamber, she guided its growth from 50 businesses to the 760 business and professional members, which represent approximately 70 percent of all businesses in the 90-square mile Barrington area; and

WHEREAS, a graduate of DePaul University, Carol served on the Board of Regents for the U.S. Chamber's Institute for Organization Management with responsibilities at Notre Dame University, was a member of the U.S. Chamber of Commerce Advisory Committee, and was a director of the Illinois State Chamber; and

WHEREAS, in Barrington she has served in a leadership capacity in numerous community organizations, including the Buckler YMCA, the Barrington Park Board of Commissioners, Family Service of South Lake County, the Council on Aging, and the Barrington Area Arts Council;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 8, 2000, as CAROL BEESE DAY in Illinois.

Issued by the Governor November 30, 2000.

Filed by the Secretary of State December 11, 2000.

2000-613

## TAYLORVILLE CHRISTMAS HIGH TEA DAY

WHEREAS, the Christmas High Tea is an annual event held in Taylorville, Illinois, representing such groups as the Daughters of the American Revolution, the Taylorville Women's Club, and the Business and Professional Women's Club; and

WHEREAS, the tea includes delicacies prepared by experts Barbara Crites and Marsha France, an orchestra ensemble conducted by Lee Pondell, a style show of past and present gowns provided by women in the Taylorville area, and a Christmas Home Tour; and

WHEREAS, each year volunteer chefs Barbara Crites and Marsha France make tantalizing homemade items for each person attending the tea, which are served on exquisite china provided by volunteer hostesses; and

WHEREAS, the high tea began in 1997, and has served over 2,000 people since its inception, and each year the menu becomes more opulent, causing ticket sales to sell out annually; and

WHEREAS, proceeds from the Christmas High Tea have been donated to the Taylorville School District for assistance in the fine arts, so that the youth of Taylorville have an opportunity for a greater exposure to the arts; and

WHEREAS, the Taylorville Christmas High Tea has become a cherished event,

## PROCLAMATIONS

enticing people from all areas, including Midwest Living Magazine in 1999, and the Travel Discovery Channel this year;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 2, 2000, as *TAYLORVILLE CHRISTMAS HIGH TEA DAY* in Illinois.

Issued by the Governor November 30, 2000.

Filed by the Secretary of State December 11, 2000.

2000-614

**A DAY FOR HEARTS: CONGENITAL HEART DEFECT AWARENESS DAY**

WHEREAS, congenital heart defects exist at birth; and

WHEREAS, with familiarity of the disorder, more diagnoses are being made of what was not long ago thought to be an extremely rare and irreparable disorder; and

WHEREAS, congenital heart defect is among the most common birth defects and is the leading cause of defect-related deaths. Too many babies, children, and adults born with this condition continue to die due to the severity of the defect; and

WHEREAS, more than 32,000 infants are born each year with heart defects in the United States; and

WHEREAS, congenital heart disease is being researched by numerous professionals in order to more accurately describe its origin, physical signs, symptoms, and surgical options; and

WHEREAS, citizens should be made more aware of congenital heart disease so that early diagnosis and intervention becomes a top priority;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 14, 2001, as *A DAY FOR HEARTS: CONGENITAL HEART DEFECT AWARENESS DAY* in Illinois.

Issued by the Governor December 4, 2000.

Filed by the Secretary of State December 11, 2000.

2000-615

**BILL SCHNEIDER DAY**

WHEREAS, William M. (Bill) Schneider is retiring from his position as President and Chief Executive Officer of the Chicago Association for Retarded Citizens; and

WHEREAS, Bill Schneider has served the Association for the past 30 years and assumed the mantle of leadership from the retiring Otto Whitehill in 1991, and has since then provided outstanding professional leadership to the staff and volunteers of the organization; and

WHEREAS, under Bill's direction over the years, CARC has served tens of thousands of children and adults with disabilities, enabling them to reach their maximum potentials for independent living and exercise their rights as full citizens of the State of Illinois; and

WHEREAS, most of the adults with disabilities who have experienced CARC's training have become at least partially self-supporting citizens, thereby becoming taxpayers rather than tax recipients; and

WHEREAS, Bill Schneider made the wise decision to have CARC maintain affiliation with the ARC of Illinois, the Illinois Association of

## PROCLAMATIONS

Rehabilitation Facilities, and Don Moss & Associates over these years, guaranteeing CARC strong representation to State government; and

WHEREAS, Bill Schneider has served on many State and local government committees, commissions, and workgroups over the past 30 years, providing his expertise and guidance;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 11, 2001, as *BILL SCHNEIDER DAY* in Illinois.

Issued by the Governor December 4, 2000.

Filed by the Secretary of State December 11, 2000.

2000-616

**OPTICIANS MONTH**

WHEREAS, good vision immeasurably improves the quality of life enjoyed by our citizens; and

WHEREAS, more of our citizens are seeing better than ever before in history; and

WHEREAS, the allied health professionals known as dispensing opticians provide the technical expertise and skill needed to fabricate and fit eyeglasses, contact lenses, and low vision aids to make the best vision possible; and

WHEREAS, dispensing opticians are an integral part of the vision care delivery system, which enables all citizens to receive vision correction products and services to maximize their vision potential; and

WHEREAS, dispensing opticians through programs of State licensure and national certification demonstrate their superb qualifications as members of the vision care delivery team; and

WHEREAS, dispensing opticians enhance competition within the optical industry and assure that Illinois consumers receive vision correction products and services from a provider of their choice; and

WHEREAS, dispensing opticians assure that eyewear is available within a wide range of types and brands to fit every consumer's taste and economic means; and

WHEREAS, the free market of choice of eyewear is guaranteed by the Federal Trade Commission's Prescription Release Rule;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 2001, as *OPTICIANS MONTH* in Illinois.

Issued by the Governor December 4, 2000.

Filed by the Secretary of State December 11, 2000.

2000-617

**VIRGIL AND ANNIE ROBBINS DAY**

WHEREAS, Virgil Levern Robbins of Illinois married Annie Leusetta Laurie of Kansas on December 16, 1944; and

WHEREAS, as an Air Force family, the Robbins family lived in several places, including Florida, Michigan, and Nebraska, and while living in Europe they frequently traveled to Germany and France, making life long friends throughout their travels; and

WHEREAS, Virgil and Annie raised five children: Danny, Dale, Cynthia,



## PROCLAMATIONS

Kelly, and Julie and instilled in them compassion, a strong work ethic, family values, and the belief in our almighty God; and  
 WHEREAS, Virgil and Annie are the proud grandparents of Chris, Danny, Amanda, Megan, Morgan, and Maverick, and the great-grandparents of Blake, Baylin, and Neil; and

WHEREAS, their numerous family pets, including Pepe, Wiget, Jake-a-mime-a, Stuffy, Cory, Maxwell, Dutchess, Blossom the pig, Frosty the pony, and various gerbils, mice, birds, fish, snakes, and the "replacement" kitties also brought joy into their lives; and

WHEREAS, Virgil and Annie are wealthy beyond compare, having been blessed with good health, happiness, family and friends, and a warm and loving home; and

WHEREAS, Virgil and Annie will celebrate their 56th wedding anniversary on December 16, 2000, with their family and friends who wish them continued good fortune and health for many years to come;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 16, 2000, as *VIRGIL AND ANNIE ROBBINS DAY* in Illinois.

Issued by the Governor December 4, 2000.

Filed by the Secretary of State December 11, 2000.

## 2000-618

## VOLUNTEER BLOOD DONOR MONTH

WHEREAS, the demand for blood is greater today than ever, with patients in need of a blood transfusion every three seconds; and

WHEREAS, annually, approximately 590,000 units of blood are donated, yet about 600,000 units of blood are needed for transfusions throughout Illinois; and

WHEREAS, only 300,000 people are estimated to donate blood each year out of the 6.6 million who are eligible to donate blood in Illinois, but many more donors are needed because accident victims, surgical patients, and Leukemia and other cancer patients all utilize donated blood; and

WHEREAS, donating blood is a fast and safe way to help our fellow citizens;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 2001, as *VOLUNTEER BLOOD DONOR MONTH* in Illinois.

Issued by the Governor December 4, 2000.

Filed by the Secretary of State December 11, 2000.

## 2000-619

## CRITICAL CARE NURSES WEEK

WHEREAS, critical care nurses are registered professional nurses who make their optimal contribution as a part of a health care system driven by the needs of critically ill patients; and

WHEREAS, critical care nurses have a commitment to excellence in education and an awareness that education is fundamental to professional growth and excellence in clinical practice; and

WHEREAS, the American Association of Critical Care Nurses (AACN) was established in 1969 to assist members of the profession in keeping abreast with

## PROCLAMATIONS

the technical advancements of the critical care environment; and  
 WHEREAS, currently, AACN has approximately 65,000 members nationwide including over 2,700 in Illinois; and

WHEREAS, in addition to basic preparation, critical care nurses must have advanced knowledge of the psycho social, physiological, and therapeutic components specific to the care of the critically ill; and

WHEREAS, the CCRN certification, obtained only after passing a comprehensive examination and acquiring professional experience, is a national recognition of professional proficiency in critical care nursing;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 25-31, 2000, as *CRITICAL CARE NURSES WEEK* in Illinois.

Issued by the Governor December 5, 2000.

Filed by the Secretary of State December 11, 2000.

## 2000-620

## DWIGHT SWANSON DAY

WHEREAS, Dwight Swanson of Geneseo, Illinois, was born December 12, 1920; and

WHEREAS, Dwight Swanson served in the U.S. Airforce, and in 1942, he was shot down over Munich, Germany, and became a POW until his escape; and

WHEREAS, he married Nadine Kirchner in 1943, and together they are the proud parents of Melody, Candace, and Tamra; and

WHEREAS, becoming a professional dancer in high school, Dwight, along with Nadine has danced in many competitions, including the Aragone Ballroom in Chicago; and

WHEREAS, in 1942, Dwight became a real estate businessman and still continues to help out in the real estate office; and

WHEREAS, in 1945, Dwight began a second occupation as a farmer, and still continues to farm 480 acres of corn, timber, and occasionally beans; and

WHEREAS, Dwight Swanson will be celebrating his 80th birthday on December 12, 2000, with his family and friends;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 12, 2000, as *DWIGHT SWANSON DAY* in Illinois.

Issued by the Governor December 5, 2000.

Filed by the Secretary of State December 11, 2000.

## 2000-621

## MARTIN LUTHER KING WEEK

WHEREAS, Martin Luther King, Jr. devoted his life to the advancement of civil rights and public service; and

WHEREAS, Dr. King recognized that greatness can be achieved through the service of his or her fellow man; and

WHEREAS, during his lifetime, Dr. King encouraged all Americans to serve their neighbors and work to better their communities; and

WHEREAS, the citizens of Illinois honor Dr. King's legacy each year with a day of remembrance in January that focuses on bringing people together to break down the barriers that divide our State and nation; and

WHEREAS, thousands of Illinois citizens use Martin Luther King Day as a



## PROCLAMATIONS

day dedicated to community service and fulfilling Dr. King's dream;  
**THEREFORE**, I, George H. Ryan, Governor of the State of Illinois, proclaim  
 January 13-20, 2001, as **MARTIN LUTHER KING WEEK** in Illinois.  
 Issued by the Governor December 6, 2000.  
 Filed by the Secretary of State December 11, 2000.

Vol. 24, Issue 53

ISSUES INDEX

December 29, 2000

Rules acted upon during the calendar quarter from Issue 43 through Issue 53 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us on the Internet.

## PROPOSED

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The first part of the paper  
is devoted to a discussion  
of the general principles  
of the theory.

The second part of the paper  
is devoted to a discussion  
of the special cases of the  
theory. The first case is  
the case of a uniform  
medium. The second case  
is the case of a medium  
with a constant velocity.  
The third case is the case  
of a medium with a  
variable velocity. The  
fourth case is the case  
of a medium with a  
constant velocity and a  
variable density. The  
fifth case is the case  
of a medium with a  
variable velocity and a  
variable density. The  
sixth case is the case  
of a medium with a  
constant velocity and a  
variable density and a  
variable velocity.

The seventh part of the paper  
is devoted to a discussion  
of the applications of the  
theory. The first application  
is the case of a uniform  
medium. The second  
application is the case  
of a medium with a  
constant velocity. The  
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variable velocity. The  
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case of a medium with a  
constant velocity and a  
variable density. The  
fifth application is the  
case of a medium with a  
variable velocity and a  
variable density. The  
sixth application is the  
case of a medium with a  
constant velocity and a  
variable density and a  
variable velocity. The  
seventh application is the  
case of a medium with a  
variable velocity and a  
variable density and a  
variable velocity.















